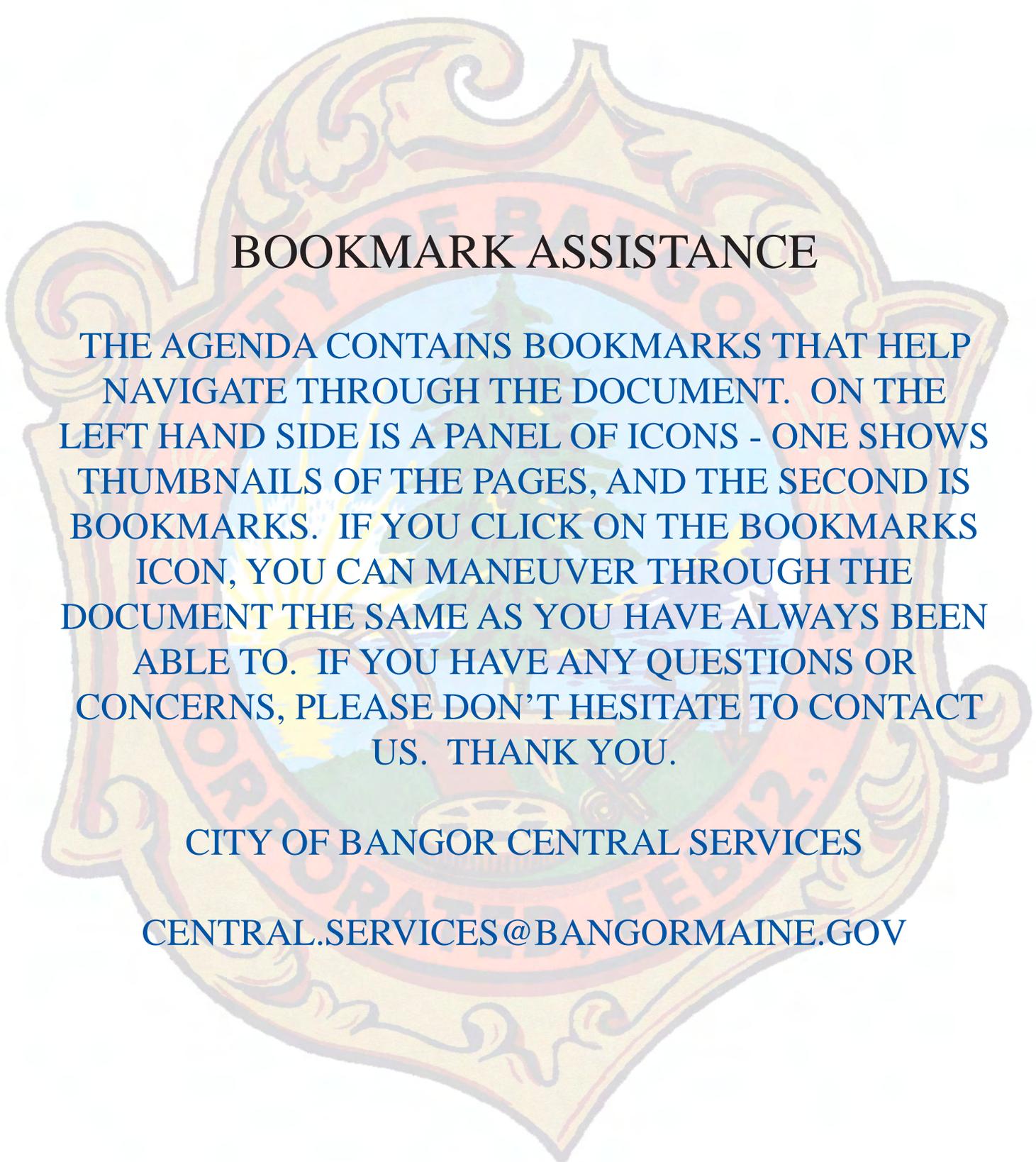




# **CITY COUNCIL AGENDA**

**April 25, 2016**





## BOOKMARK ASSISTANCE

THE AGENDA CONTAINS BOOKMARKS THAT HELP NAVIGATE THROUGH THE DOCUMENT. ON THE LEFT HAND SIDE IS A PANEL OF ICONS - ONE SHOWS THUMBNAILS OF THE PAGES, AND THE SECOND IS BOOKMARKS. IF YOU CLICK ON THE BOOKMARKS ICON, YOU CAN MANEUVER THROUGH THE DOCUMENT THE SAME AS YOU HAVE ALWAYS BEEN ABLE TO. IF YOU HAVE ANY QUESTIONS OR CONCERNS, PLEASE DON'T HESITATE TO CONTACT US. THANK YOU.

CITY OF BANGOR CENTRAL SERVICES

[CENTRAL.SERVICES@BANGORMAINE.GOV](mailto:CENTRAL.SERVICES@BANGORMAINE.GOV)

**REGULAR MEETING BANGOR CITY COUNCIL – APRIL 25, 2016**

---

---

**PLEDGE ALLEGIANCE TO THE FLAG**

**PROCLAMATION:** Proclaiming April 29, 2016 as Arbor Day

**PUBLIC COMMENT**

**CONSENT AGENDA  
ITEM NO.**

**ASSIGNED TO  
COUNCILOR**

\*Explanatory Note: All items listed in the Consent Agenda are considered routine and are proposed for adoption by the City Council by one motion without discussion or deliberation. If discussion on any item is desired any member of the Council or public may merely request removal of the item to its normal sequence in the regular agenda prior to a motion for passage of the Consent Agenda.

**MINUTES OF: Bangor City Council Regular Meeting of April 11, 2016, Finance Committee Meeting of April 11, 2016, and Business and Economic Development Committee Meeting of April 19, 2016**

**LIQUOR LICENSE  
RENEWALS:**

**Application for Liquor License Renewal, Malt, Spirituous, Vinous of City of Bangor d/b/a Cross Insurance Center, 515 Main Street**

**BALDACCI**

**Application for Liquor License Renewal, Malt, Spirituous, Vinous of Capitol BC LLC d/b/a Bugaboo Creek Steakhouse, 24 Bangor Mall Boulevard**

**BALDACCI**

**Application for Liquor License Renewal, Malt, Spirituous, Vinous of Hero's Sports Grill LLC d/b/a Hero's Sports Grill at Bangor Municipal Golf Course, 278 Webster Avenue**

**BALDACCI**

**16-154 ORDER**

**Authorizing Execution of Municipal Quitclaim Deed – Real Estate Located at 53 Webster Avenue North (Map 22 Lot 13)**

**NEALLEY**

**Executive Summary:** In 2011, a sewer lien was filed on the property of Jennifer and Daniel Searway of 53 Webster Avenue North. At some point the charges were paid but a discharge of the lien was never recorded. Therefore a municipal quitclaim is required to clear title to the property. There are no outstanding real estate taxes or code issues. Staff recommends approval.

**16-155 ORDER**

**Authorizing the City Manager to Accept \$2,947.00 in U.S. Currency, or a Portion Thereof, as a result of a State Criminal Forfeiture**

**PERRY**

**REGULAR MEETING BANGOR CITY COUNCIL – APRIL 25, 2016**

---

---

**CONSENT AGENDA  
ITEM NO.**

**ASSIGNED TO  
COUNCILOR**

**Executive Summary:** This order authorizes the City Manager to accept and transfer \$2,947.00 State Criminal Forfeiture Funds. Members of the Bangor Police Department were instrumental in an arrest leading to the seizure of drugs, cash and property that was subsequently forfeited by the individual who was arrested. As a result, the City is entitled to a portion of the seized funds. This Order will authorize the acceptance of the funds and the execution of the approval of the fund transfer.

**16-156    ORDER                      **Accepting the City of Bangor’s Comprehensive Annual Financial Report for the Year Ended June 30, 2015**                      **DURGIN****

**Executive Summary:** This Order accepts the City’s Comprehensive Annual Financial Report (CAFR) including its General Purpose Financial Statements and the Independent Auditor’s unqualified opinion as prepared by Runyon Kersteen Ouellette of South Portland, Maine.

In accordance with State law, the City prepares this annual financial statement through an independent audit firm. Based upon the audit findings, the City received an unqualified opinion that the financial statements are fairly stated in all material respects. Additionally, no material weaknesses have been identified related to the City’s internal controls.

For the past eighteen years, the City has been awarded the Government Finance Officers Associations (GFOA) Certificate of Achievement for Excellence in Financial Reporting. As such, this CAFR has been submitted to GFOA for their consideration. At this time, staff and the Manager recommend approval. The Finance Committee met with the City’s auditors and reviewed the various reports on March 7, 2016.

**16-157    ORDER                      **Authorizing Contract Award for LED Streetlight Fixtures to Gilman Electric**                      **NEALLEY****

**Executive Summary:** On March 30, 2016, the City received seven (7) bids for the supply of LED streetlight fixtures. Of the seven bids received only two met the required fixture specifications, Wesco Distribution and Gilman Electric. The bid prices ranged from \$157 to \$165.50/per fixture for the specified unit.

This bid was issued to purchase LED streetlight fixtures to be partially rebated through the Efficiency Maine large customer program. Funding for these fixtures is included in the proposed FY 2017 budget, but some work may occur during this year from available FY 2016 funds.

This item was reviewed and recommended for approval by the Finance Committee on April 11, 2016.

**16-158    ORDER                      **Authorizing Execution of Documents to Amend Conditions in Deed From City of Bangor to Penobscot Community Health Care – Union Street**                      **GRAHAM****

**REGULAR MEETING BANGOR CITY COUNCIL – APRIL 25, 2016**

---

---

**CONSENT AGENDA  
ITEM NO.**

**ASSIGNED TO  
COUNCILOR**

**Executive Summary:** This Order will authorize the execution of documents with Penobscot Community Health Care necessary to extend time to comply with the deed conditions from June 2016 to June 16, 2018. By deed dated June 16, 2009, the City conveyed to Penobscot Community Health Care (PCHC) approximately one-half acre of vacant land abutting its Bangor Medical Center complex on Union Street. A condition of the deed was that the land was to be used only for the purpose of meeting impervious surface ratio requirements of the City of Bangor Land Development Code to construct additional parking on its complex or to construct parking on the conveyed parcel or both and for no other purposes. The deed also included a condition that if it is not done within five years of the date of the deed the property reverts to the City in return for the purchase price.

In 2014 Penobscot Community Health Care requested an amendment to the conditions and the deed to give it an additional two years to comply with the requirement that it use the property. The development planned by Penobscot Community Health Care did not take place as quickly as it had anticipated and it will not be able to comply with the deed conditions in the time required. Penobscot Community Health Care has asked for additional time of another two years to comply with the deed conditions. This item was reviewed and recommended for approval at the Business and Economic Development meeting of April 19, 2016.

**16-159   ORDER                      Authorizing Execution of Agreement for Maine                      SPRAGUE  
Department of Transportation Local Project – Union  
Street and Fourteenth Street Intersection Improvements,  
WIN 20896.00**

**Executive Summary:** This order would authorize the City Manager to execute a Local Project Agreement with the Maine Department of Transportation for replacement of traffic signals at the intersection of Union Street (Route 222) and Fourteenth Street and construction of a right-turn lane from Fourteenth Street onto Union Street. The Maine Department of Transportation has approved funds in an amount not to exceed \$240,865.00. The total State/Federal share of 90% is equal to \$216,778.50, and the Municipality share of 10% is equal to \$24,086.50. As a condition of this funding, the City is required to enter into a Local Project Agreement with the Maine Department of Transportation. This item was reviewed and recommended for approval at the Infrastructure Committee meeting on April 12, 2016.

**16-160   ORDER                      Authorizing Execution of Agreement for Maine                      PLOURDE  
Department of Transportation Local Project – Maine  
Avenue Resurfacing, WIN 20856.00**

**Executive Summary:** This order would authorize the City Manager to execute a Local Project Agreement with the Maine Department of Transportation for resurfacing of 0.57 mile of Maine Avenue from Johnson Street to Venture Way.

The Maine Department of Transportation has approved funds in an amount not to exceed \$657,828.00. The total State/Federal share of 90% is equal to \$592,045.20, and the Municipality share of 10% is equal to \$65,782.80. As a condition of this funding, the City is required to enter into a Local Project Agreement with the Maine Department of Transportation. This item was reviewed and recommended for approval at the Infrastructure Committee meeting on April 12, 2016.

**REGULAR MEETING BANGOR CITY COUNCIL – APRIL 25, 2016**

---

---

**CONSENT AGENDA  
ITEM NO.**

**ASSIGNED TO  
COUNCILOR**

**16-161   ORDER                      Authorizing Execution of Agreement for Maine                      GRAHAM  
Department of Transportation Local Project – Maine  
Avenue Resurfacing, WIN 20857.00**

**Executive Summary:** This order would authorize the City Manager to execute a Local Project Agreement with the Maine Department of Transportation for resurfacing of 0.4 mile of Maine Avenue from Venture Way to Hammond Street.

The Maine Department of Transportation has approved funds in an amount not to exceed \$577,410.00. The total State/Federal share of 90% is equal to \$519,669.00, and the Municipality share of 10% is equal to \$57,741.00. As a condition of this funding, the City is required to enter into a Local Project Agreement with the Maine Department of Transportation. This item was reviewed and recommended for approval at the Infrastructure Committee meeting on April 12, 2016.

**16-162   ORDER                      Authorizing Execution of Agreement for Maine                      NICHOLS  
Department of Transportation Local Project – Penobscot  
River Walk Improvements, WIN 21767.00**

**Executive Summary:** This order would authorize the City Manager to execute a Local Project Agreement with the Maine Department of Transportation for design, right-of-way, construction, and construction engineering for a reconstruction of 750 feet of waterfront sidewalk behind the Sea Dog restaurant, and construction of a new sidewalk for 180 feet along Front Street.

The Maine Department of Transportation has approved funds in an amount not to exceed \$261,630.00. The total State/Federal share of 80% is equal to \$209,304.00, and the Municipality share of 20% is equal to \$52,326.00. As a condition of this funding, the City is required to enter into a Local Project Agreement with the Maine Department of Transportation. This item was reviewed and recommended for approval by the Infrastructure Committee at its meeting of April 12, 2016.

**16-163   ORDER                      Authorizing Execution of Agreement for Maine                      DURGIN  
Department of Transportation Local Project – Finson  
Road Sidewalk, WIN 21661.00**

**Executive Summary:** This order would authorize the City Manager to execute a Local Project Agreement with the Maine Department of Transportation for design and construction of a sidewalk on Finson Road for 0.38 miles, beginning at Davis Road and ending 0.04 of a mile south of Blue Hill East.

The Maine Department of Transportation has approved funds in an amount not to exceed \$151,000.00. The total State/Federal share of 80% is equal to \$120,800.00, and the Municipality share of 20% is equal to \$30,200.00. As a condition of this funding, the City is required to enter into a Local Project Agreement with the Maine Department of Transportation. This item was reviewed and recommended for approval at the Infrastructure Committee meeting on April 12, 2016.

**REGULAR MEETING BANGOR CITY COUNCIL – APRIL 25, 2016**

---

---

**CONSENT AGENDA  
ITEM NO.**

**ASSIGNED TO  
COUNCILOR**

**16-164   ORDER**      **Authorizing Execution of Agreement for Maine  
Department of Transportation Local Project – Ohio  
Street and Fourteenth Street Intersection Improvements,  
WIN 20895.00**      **PERRY**

**Executive Summary:** This order would authorize the City Manager to execute a Local Project Agreement with the Maine Department of Transportation for the design of the replacement of traffic signals, installation of pedestrian signals, rehabilitation of sidewalks and sidewalk ramps, and adjustment of the turning radius at the intersection of Ohio Street and Fourteenth Street.

The Maine Department of Transportation has approved funds in an amount not to exceed \$15,000.00. The total State/Federal share of 90% is equal to \$13,500.00, and the Municipality share of 10% is equal to \$1,500.00. As a condition of this funding, the City is required to enter into a Local Project Agreement with the Maine Department of Transportation. This item was reviewed and recommended for approval at the Infrastructure Committee meeting on April 12, 2016.

**16-165   ORDER**      **Authorizing the City Manager to execute an amendment  
to the lease and concession agreement between the City  
of Bangor and Garedc, Inc., d/b/a The Grasshopper  
Shop, for rental of Room #203 within the Domestic  
Terminal at Bangor International Airport (BGR).**      **BALDACCI**

**Executive Summary:** This Order authorizes an amendment to the current lease and concession agreement between the City of Bangor and Garedc, Inc, d/b/a The Grasshopper Shop. The Grasshopper Shop operates a retail concession in the domestic terminal at Bangor International Airport. They offer Maine specific items to travelers. Specifically, this amendment adjusts the rental schedule to match the rental schedule of the other gift shop concession at Bangor International Airport. This lease agreement will be in final form as approved by City Legal. This item was reviewed and approved by the Airport Committee at its meeting on April 12, 2016.

**16-166   ORDER**      **Accepting a \$25,000 Grant from Penobscot County  
Emergency Management Agency for Improvements at  
the Fire Training Facility**      **SPRAGUE**

**Executive Summary:** This will accept a \$25,000 grant from Penobscot County Emergency Management Agency. The grant will fund the installation of an 8,000 gallon underground water tank. This tank will replace a 6,000 gallon tank that is leaking. The fire department uses this tank to conduct certification testing on fire truck pumps. This grant does not require any local match. This item was reviewed and recommended for approval by the Finance Committee on April 11, 2016.

**16-167   ORDER**      **Amending the Schedule of Fees - Clerk - Taxicab and  
Livery Fees**      **DURGIN**

**REGULAR MEETING BANGOR CITY COUNCIL – APRIL 25, 2016**

---

---

**CONSENT AGENDA  
ITEM NO.**

**ASSIGNED TO  
COUNCILOR**

**Executive Summary:** This proposed amendment to the fee schedule would increase the fees charged for taxicab driver's licenses and taxicab vehicle licenses, bringing them into compliance with the recent amendments to the taxicab ordinance.

If approved this amendment will increase the fee charged for a taxicab driver's license by \$25, which is proposed to cover the cost of doing a background check every year, rather than just the first time a taxicab driver receives a license. The new fee will be \$82 for a first-time applicant and \$57 for a renewal applicant.

The fee for licensing taxicab vehicles is currently \$86, covering the cost of inspection of the cab. This Order would not increase the fee, but would just change the schedule to reflect that taxicabs are now licensed under an overall taxicab business license for a cab company, rather than each cab being licensed separately.

Finally, under the new ordinance, the above fees will apply to livery vehicles and drivers as well. Livery vehicles are similar in most respects to taxicabs, but charge by flat fee or by the minute rather than according to the per-mile rate calculated on a taximeter. The recent amendments to the taxicab ordinance caused livery vehicles and drivers to be regulated like taxicabs, so there is a similar need for a fee to cover background check and inspection costs. This item was reviewed and recommended for approval by the Government Operations Committee at its April 4, 2016 meeting.

**REFERRALS TO COMMITTEE AND FIRST READING  
ITEM NO.**

**ASSIGNED TO  
COUNCILOR**

**16-168   ORDINANCE   Amending Land Development Code – Contract Zone Change – 656 State Street and the State Hospital Drive (Tax Map R63-008) from a Low Density Residential District to a Contract Government and Institutional Service District (First Reading and Referral to Planning Board Meeting of May 3, 2016)**

**GRAHAM**

**Executive Summary:** Emera Maine, is requesting a contract zone change for part of a parcel of land (1.81 acres) located at 656 State Street (Tax Map R63-008) from a Low Density Residential District to a Contract Government and Institutional Service District. The property to be rezoned is vacant field on the grounds of Dorthea Dix Psychiatric Center. The applicant seeks to build an electrical substation.

The contract conditions will allow only a small structure to be constructed on the rezoned land (5,519 Square Feet) and not exceed 35 feet in height. The City previously had concerns that a large institutional structure would be constructed next to the low density residential neighborhood.

**16-169   RESOLVE   Accepting and Appropriating a \$51,000 Grant From the Maine Fire Service Institute to Fund Improvements to the Fire Training Center (First Reading)**

**DURGIN**

## REGULAR MEETING BANGOR CITY COUNCIL – APRIL 25, 2016

---

---

### REFERRALS TO COMMITTEE AND FIRST READING ITEM NO.

### ASSIGNED TO COUNCILOR

**Executive Summary:** This Resolve will accept and appropriate \$51,000 in Grant Funding from the Maine Fire Service Institute to make improvements at the Fire Department Training Center located at 201 Odlin Road. This funding will be utilized for the purpose of upgrading the Burn Building (\$40,000), the Classroom (\$6,000) and the Bathroom Building (\$5,000). The grant does not require any local match. This item was reviewed and recommended for approval by the Finance Committee on April 11, 2016.

### UNFINISHED BUSINESS ITEM NO

### ASSIGNED TO COUNCILOR

**16-104 ORDINANCE Amending Land Development Code – Zone Change – 262 Garland Street (Tax Map 053-218) from an Urban Residence One District to an Urban Residence Two District**

**GRAHAM**

**Executive Summary:** The applicant, MWC Properties LLC, Jeffrey Mitchell, is requesting a zone change for a parcel of land located at 262 Garland Street (Tax Map 053-218) from a Urban Residence One District to an Urban Residence Two District. The URD2 zone will allow them to have up to four dwelling units in one building on the property. This item was reviewed and not recommended for amendment by the Planning Board at its meeting on April 19, 2016, with a vote of 2-4.

**16-142 ORDINANCE Amending Chapter 260, Signs, of the Code of the City of Bangor, By Allowing Farmers' Market Signs on G&ISD Properties**

**GRAHAM**

**Executive Summary:** The Bangor Farmers' Market is presently located in the Abbott Square Parking Lot and the Farmers' Market has approached the City asking to place one or two signs at the Abbott Square parking lot.

The City Code does not presently allow for either sign, due to setback requirements in the zoning district in which the farmer's market is located. This ordinance would allow one or both of these signs to be placed, without impairing visibility for traffic.

This item was reviewed and recommended for approval at the Business and Economic Development Committee meeting on April 5, 2016.

**16-144 ORDINANCE Amending Land Development Code – Zone Change – At or about 611 Ohio Street (Tax Map R35 - a portion of Lot 054) from a Government & Institutional Service District to a Low Density Residential District**

**PERRY**

**REGULAR MEETING BANGOR CITY COUNCIL – APRIL 25, 2016**

---

---

**UNFINISHED BUSINESS  
ITEM NO**

**ASSIGNED TO  
COUNCILOR**

**Executive Summary:** The applicant, Roman Catholic Bishop of Portland, is requesting a zone change for a portion of Mount Pleasant Cemetery, located on Ohio Street, (Tax Map R35 - a portion of Lot 054) from a Government & Institutional Service District to a Low Density Residential District. If approved, the Low Density Residential District will permit the construction of a residential unit on the lot. Currently, Saint Paul the Apostle Parish plans to assist in the construction of a house for Habitat For Humanity. The property is served by public sewer and water. This item was reviewed and unanimously recommended for approval by the Planning Board at its April 19, 2016 meeting.

**16-145   ORDINANCE   Amending Land Development Code – Zone Change –      **BALDACCI**  
Polk Street (Tax Map 001-parcel 487) from a  
Government & Institutional Service District to an  
Airport Development District**

**Executive Summary:** The applicant, General Electric, is requesting a zone change for a parcel of land located on Polk Street (Tax Map 001-487) from a Government & Institutional Service to an Airport Development District. If approved, the zone change will create consistency with surrounding GE properties already zoned Airport Development District. This item was reviewed and unanimously recommended for approval by the Planning Board at its April 19, 2016 meeting.

**16-146   ORDINANCE   Amending the Code of the City of Bangor, Chapters 234,      **NEALLEY**  
Public Property, and 260, Signs, By Allowing Downtown  
Banners and Extending the Time Limit for  
Nonconforming Signs**

**Executive Summary:** This ordinance amendment seeks to clarify a number of provisions in the sign code including downtown seasonal and promotional banners and extend the time that nonconforming signs may be replaced. Currently, the city code specifically allows banners to be put up downtown above streets and sidewalks provided that the banners either advertise activities of a nonprofit organization or be approved by the City Council. State law prohibits any signs or banners in the right of way which are not municipal. In practice, the City has followed state law and banners have only been used for city events such as the Cool Sounds concert series. This ordinance amendment proposes to clarify that banners can only be placed in the right of way to advertise city events in conformance with State law. Another proposal is to remove the 14 day restriction. Many of the events that occur in the city, such as Cool Sounds, extend through a season. If this ordinance amendment is approved, the 14 day restriction would be removed.

Often the City has sponsors for events such as Cool Sounds. If approved, the amendments would allow for acknowledgement of sponsors of these signs, add standards regarding advertising, logos, and public safety, and would move all sign standards into one place in the sign code. Finally, this ordinance amendment would also extend the amount of time that a nonconforming sign can be replaced after the sign has been removed to 36 months, from the current 12 month limit. The sign still must be removed within 30 days of a business ceasing operation, but a new sign can now go up on the same sign structure within 36 months, instead of 12.

---

---

**REGULAR MEETING BANGOR CITY COUNCIL – APRIL 25, 2016**

---

---

**NEW BUSINESS  
ITEM NO.**

**ASSIGNED TO  
COUNCILOR**

**PUBLIC HEARING:**      **Application for Special Amusement License Renewal of  
City of Bangor d/b/a Cross Insurance Center, 515 Main  
Street**      **BALDACCI**

**16-170    ORDER**      **Authorizing the transfer \$1,100,000 from the Unassigned  
Fund Balance**      **DURGIN**

**Executive Summary:** This Order will authorize the transfer \$1,100,000 from the unassigned fund balance to replenish capital reserve funds. The Charter specifies that the City will maintain a fund balance of no less than 8.33% of the prior years' operating expenditures. The audit for fiscal year ending 2015 indicates that the City has an unassigned balance of approximately \$10.0 million which represents 10.86% of the prior year expenditures. Over the past several budget cycles, the City has not budgeted sufficient funds to maintain capital replacement funds. As a result, it is recommended by staff that \$1,100,000 be transferred to the capital funds as follows; \$700,000 to the Capital Improvement Fund, \$275,000 to the Bus Replacement Fund and \$125,000 to the Fire Equipment Replacement Fund. If approved, this transfer would ensure adequate funds within the Improvement Fund to cover the cost of items proposed for funding in the proposed FY 2017 budget, to fund Bangor's share of bus rehabilitation and replacement as anticipated in the 5 year capital plan and to fund the purchase of two ambulances in future years. If approved the unassigned fund balance will drop to approximately \$8.9 million which represents 9.7% of the 2015 operating budget. This item was reviewed and recommended for approval by the Finance Committee on April 11, 2016.

**16-171    ORDER**      **Authorizing Application for Transit Bus Funding under  
the Federal Transit Administration Fixing America's  
Surface Transportation (FAST) Act**      **NICHOLS**

**Executive Summary:** This Order will authorize an application for funding under the Federal Transportation Administration, Fixing America's Surface Transportation (FAST) Act, to replace up to five Orion Community Connector transit buses. These buses meet both the age and mileage requirements for replacement under FTA rules, and if successful, would be the first new buses added to the fleet since 2011 when federal stimulus funding was made available. It is estimated that new transit buses cost in the range of \$400,000-\$425,000 per bus. Under the terms of the funding program, if the buses are ADA compliant, a local match of 15% would be required. Given the age and condition of the fleet and limited funding opportunities, it is recommended that the city apply for the FAST funding. This was reviewed and recommended for approval at the April 11, 2016 special Finance Committee meeting.

**16-172    ORDER**      **Directing the City Manager to Take Possession of Vacant  
Land Located on Patten Street – Map 035 Lot 014**      **PLOURDE**

**REGULAR MEETING BANGOR CITY COUNCIL – APRIL 25, 2016**

---

---

**NEW BUSINESS  
ITEM NO.**

**ASSIGNED TO  
COUNCILOR**

**Executive Summary:** This Order directs the City Manager to take possession of vacant land located at 44 Patten Street by virtue of the 2014 matured tax lien. The property is identified as Map 035 Lot 014 and was previously owned by Twila and Allen Butler Jr. The City of Bangor has recorded a tax lien on the property for unpaid real estate taxes; which has matured. All attempts to receive payment have been unsuccessful. If approved, this order will also authorize the removal of all personal property. This item has been discussed at several council meetings.

**16-173 ORDER**

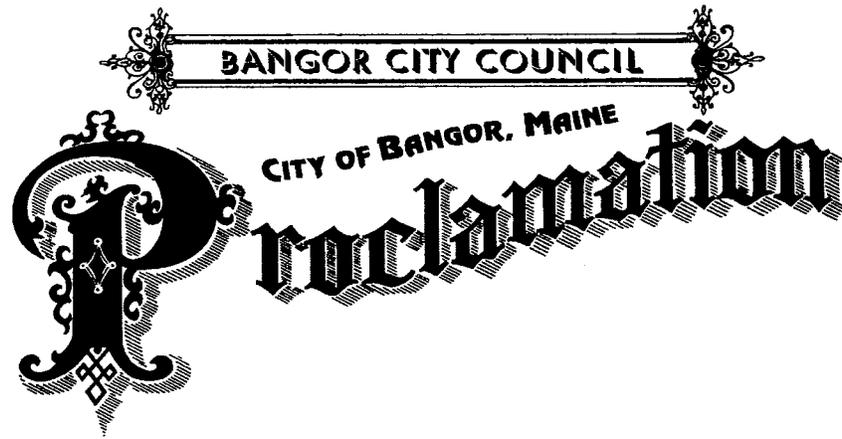
**Changing the Name of a Section of Union Street Under  
the Joshua Lawrence Chamberlain Bridge to Union  
Plaza and Adding It to the Official City Map**

**SPRAGUE**

**Executive Summary:** This Order would change the name of the portion of Union Street underneath the Joshua Lawrence Chamberlain Bridge to Union Plaza, and change the street name on the City's Official Map.

This street section's current designation as part of Union Street can be confusing; in particular, travelers using GPS are often directed over the bridge when they are trying to find a business that is located on the portion of Union Street underneath the bridge. Section 271-5 of the Code provides that the City Council may, by order, change the name of City streets.

This change was recommended at the Infrastructure Committee meeting on March 15, 2016.



**PROCLAIMING APRIL 29, 2016 AS ARBOR DAY**

- WHEREAS,** In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and
- WHEREAS,** the first Arbor Day was observed in Nebraska, where more than a million trees were planted; and
- WHEREAS,** Arbor Day is now observed throughout the nation and the world; and
- WHEREAS,** trees reduce the erosion of topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life giving oxygen and provide habitat for wildlife; and
- WHEREAS,** trees are a renewable resource providing us with paper, wood for our homes, fuel for our fires and beauty for our community; and
- WHEREAS,** trees, wherever they are planted, are a source of joy and spiritual renewal; and
- WHEREAS,** the staff and students of Abraham Lincoln School are demonstrating leadership in promoting a clean environment by planting and caring for trees.

**NOW, THEREFORE, I, Sean Faircloth, Mayor of the City of Bangor,** on behalf of the City Council do hereby proclaim April 29, 2016 Arbor Day in the City of Bangor. I urge all of my fellow citizens to set aside time on that day, and throughout the year, to appreciate the importance of trees to our quality of life and to engage in efforts to protect our trees and woodlands.

Given this the 25<sup>th</sup> day of April, 2016.

---

Sean Faircloth, Mayor



**CONSENT  
AGENDA**

**MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – APRIL 11, 2016**

---

*Meeting Called to Order at 7:30 PM  
 Chaired by Council Chair Faircloth  
 Councilors Absent: Nealley  
 Meeting Adjourned at 8:41 PM*

**RECOGNITION:** *Proclaimed April 10-16, 2016 as National Volunteer Week*

**PUBLIC COMMENT** *Paul LeClair asked for an update on how many communities have accepted the waste disposal proposal. City Manager, Cathy Conlow, indicated she was not 100% but would find out.*

<b>CONSENT AGENDA</b>	<b>ASSIGNED TO</b>
<b>ITEM NO.</b>	<b>COUNCILOR</b>

**MINUTES OF:** *Bangor City Council Regular Meeting of March 28, 2016, Bangor School Committee Regular Meeting of March 9, 2016, Airport Committee Meeting of March 15, 2016, Finance Committee Meeting of April 4, 2016, Government Operations Committee Meeting of April 4, 2016 and Business and Economic Development Committee Meetings of March 22, 2016 and April 5, 2016*

*Action: Accepted and Approved*

<b><u>LIQUOR LICENSE RENEWALS:</u></b>	<i>Application for Liquor License Renewal, Malt, Spirituous, Vinous of GMRI, Inc. d/b/a The Olive Garden Italian Restaurant #1430, 741 Hogan Road</i>	<b>GRAHAM</b>
--	---	---------------

*Action: Approved*

<i>Application for Liquor License Renewal, Malt, Spirituous, Vinous of Penobscot Yacht Club d/b/a Holiday Inn – Bangor, 404 Odlin Road</i>	<b>GRAHAM</b>
--	---------------

*Action: Approved*

<b><u>16-131</u></b>	<b><u>ORDER</u></b>	<i>Authorizing Execution of Municipal Quitclaim Deed – Real Estate Located at 608 Odlin Road (Map R18 Lot 11)</i>	<b>DURGIN</b>
----------------------	---------------------	---	---------------

*Action: Passed*

<b><u>16-132</u></b>	<b><u>ORDER</u></b>	<i>Authorizing Execution of Municipal Quitclaim Deed – Real Estate Located at 24 Prentiss Street (Map 39 Lot 150)</i>	<b>SPRAGUE</b>
----------------------	---------------------	---	----------------

*Action: Passed*

<b><u>16-133</u></b>	<b><u>ORDER</u></b>	<i>Appointing Members of the Registration Appeals Board</i>	<b>PERRY</b>
----------------------	---------------------	---	--------------

*Action: Passed*

<b><u>16-134</u></b>	<b><u>ORDER</u></b>	<i>Appointing Election Clerks</i>	<b>PLOURDE</b>
----------------------	---------------------	-----------------------------------	----------------

*Action: Passed*

<b><u>16-135</u></b>	<b><u>ORDER</u></b>	<i>Appointing Nominees to Various Boards, Commissions, and Committees</i>	<b>DURGIN</b>
----------------------	---------------------	---	---------------

*Action: Passed*

**MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – APRIL 11, 2016**

---

<b>CONSENT AGENDA ITEM NO.</b>	<b>ASSIGNED TO COUNCILOR</b>
------------------------------------	----------------------------------

<u>16-136</u> <u>ORDER</u> <i>Authorizing Bid Award in the Amount of \$139,985 to Roof Systems of Maine for Roof Renovations at 690 Maine Avenue</i>	NEALLEY
--	---------

*Action: Passed*

<u>16-137</u> <u>ORDER</u> <i>Authorizing Bid Award in the Amount of \$376,466 to Lou Silver for Court Street Sewer Separation Project</i>	BALDACCI
--	----------

*Action: Passed*

<u>16-138</u> <u>ORDER</u> <i>Authorizing an Amendment to the Lease Agreement with Hannaford Bros. Co. at 39 Florida Ave., Bangor</i>	GRAHAM
---	--------

*Action: Passed*

<u>16-139</u> <u>ORDER</u> <i>Extending the Designation of Sheldon Hartstone as Tentative Developer of a Parcel of City-Owned Land – Map 001 Lot 134 and a Portion of Map 001 Lot 001</i>	NEALLEY
---	---------

*Action: Passed*

<u>16-140</u> <u>ORDER</u> <i>Authorizing Execution of a Lease Agreement with United States of America – Building 96, 138 Maine Avenue (Tax Map 001-096)</i>	BALDACCI
--	----------

*Action: Passed*

<u>16-141</u> <u>RESOLVE</u> <i>Ratifying the Application for Competitive Bid Funding in the Amount of \$160,000 from DHHS/Maine CDC to enable the City to Serve as the Lead Fiscal Agent (LFA) on Behalf of the Penquis Public Health District</i>	NICHOLS
---	---------

*Action: Passed*

<b>REFERRALS TO COMMITTEE AND FIRST READING ITEM NO.</b>	<b>ASSIGNED TO COUNCILOR</b>
--	----------------------------------

<u>16-142</u> <u>ORDINANCE</u> <i>Amending Chapter 260, Signs, of the Code of the City of Bangor, By Allowing Farmers' Market Signs on G&amp;ISD Properties</i>	GRAHAM
---	--------

*Action: First Reading*

<u>16-143</u> <u>ORDINANCE</u> <i>Amending Chapter 9, of the Code of the City of Bangor - §9-10, Attendance at Meetings</i>	PLOURDE
---	---------

*Action: First Reading*

<u>16-144</u> <u>ORDINANCE</u> <i>Amending Land Development Code – Zone Change – At or about 611 Ohio Street (Tax Map R35 - a portion of Lot 054) from a Government &amp; Institutional Service District to a Low Density Residential District</i>	PERRY
--	-------

**MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – APRIL 11, 2016**

**REFERRALS TO COMMITTEE AND FIRST READING  
ITEM NO.**

**ASSIGNED TO  
COUNCILOR**

*Action: First Reading and Referral to Planning Board Meeting on April 19, 2016*

**16-145    ORDINANCE    *Amending Land Development Code – Zone Change – Polk Street (Tax Map 001-parcel 487) from a Government & Institutional Service District to an Airport Development District*    **BALDACCI****

*Action: First Reading and Referral to Planning Board Meeting on April 19, 2016*

**16-146    ORDINANCE    *Amending the Code of the City of Bangor, Chapters 234, Public Property, and 260, Signs, By Allowing Downtown Banners and Extending the Time Limit for Nonconforming Signs*    **NEALLEY****

*Action: First Reading and Referral to Business and Economic Development Committee Meeting on April 19, 2016*

**UNFINISHED BUSINESS  
ITEM NO**

**ASSIGNED TO  
COUNCILOR**

**16-123    ORDINANCE    *Amending Chapter 109, Fees, of the Code of the City of Bangor, By Instituting a Fee Schedule*    **DURGIN****

*Action: Motion made and seconded for Passage  
Vote: 8 – 0  
Councilors Voting Yes: Baldacci, During, Graham, Nichols, Perry, Plourde, Sprague, Durgin  
Councilors Voting No: Nealley  
Passed*

**16-124    ORDINANCE    *Repealing and Replacing Chapter 278, Taxicabs, of the Code of the City of Bangor*    **PLOURDE****

*Action: Motion made and seconded for Passage  
Vote: 8 – 0  
Councilors Voting Yes: Baldacci, During, Graham, Nichols, Perry, Plourde, Sprague, Durgin  
Councilors Voting No: Nealley  
Passed*

**16-125    ORDINANCE    *Amending Land Development Code – Contract Zone Change – 96 State Street (Tax Map 049-25) from an Urban Service District to a Contract Downtown Development*    **GRAHAM****

**MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – APRIL 11, 2016**

<b>UNFINISHED BUSINESS</b>		<b>ASSIGNED TO</b>
<b>ITEM NO</b>		<b>COUNCILOR</b>

*Action: Motion made and seconded for Passage  
Vote: 8 – 0  
Councilors Voting Yes: Baldacci, During, Graham, Nichols, Perry,  
Plourde, Sprague, Durgin  
Councilors Voting No: Nealley  
Passed*

<u>16-126</u>	<u>ORDINANCE</u>	<i>Amending Chapter 260, Signs, of the Code of the City of Bangor, By Allowing a Freestanding Sign in the Waterfront Development District</i>	<b>BALDACCI</b>
---------------	------------------	---	-----------------

*Action: Motion made and seconded for Passage  
Vote: 8 – 0  
Councilors Voting Yes: Baldacci, During, Graham, Nichols, Perry,  
Plourde, Sprague, Durgin  
Councilors Voting No: Nealley  
Passed*

<u>16-127</u>	<u>RESOLVE</u>	<i>Accepting and Appropriating \$353,891 in Grant Funds from the U.S. Department of Housing and Urban Development - Shelter Plus Care Renewal</i>	<b>NICHOLS</b>
---------------	----------------	---	----------------

*Action: Motion made and seconded for Passage  
Passed*

<u>16-130</u>	<u>ORDER</u>	<i>Authorizing the Establishment of a Community Stakeholder Steering Committee in conjunction with the AARP Grant Application regarding Livable/Age Friendly Communities and the Innovative Neighborhoods Initiative</i>	<b>PERRY</b>
---------------	--------------	--	--------------

*Action: Motion made and seconded for Passage  
Passed*

<b>NEW BUSINESS</b>		<b>ASSIGNED TO</b>
<b>ITEM NO.</b>		<b>COUNCILOR</b>

<b>LIQUOR LICENSE: (CLASS XI)</b>	<i>Application for Liquor License Renewal, Malt, Spirituous, Vinous of Pepper Dining Inc. d/b/a Chili's Grill &amp; Bar, 638 Stillwater Avenue</i>	<b>GRAHAM</b>
---------------------------------------	--	---------------

*Action: Motion made and seconded for Approval  
Approved*

	<i>Application for Liquor License Renewal, Malt, Spirituous, Vinous of DMF International, Inc. d/b/a Refueler Bar &amp; Grill, 299 Godfrey Boulevard</i>	<b>GRAHAM</b>
--	--	---------------

*Action: Motion made and seconded for Approval  
Approved*

**MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – APRIL 11, 2016**

---

<b>NEW BUSINESS ITEM NO.</b>		<b>ASSIGNED TO COUNCILOR</b>
<b><u>PUBLIC HEARING:</u></b>	<b><i>Application for Special Amusement License Renewal of Penobscot Yacht Club d/b/a Holiday Inn – Bangor, 404 Odlin Road</i></b>	<b>GRAHAM</b>
	<b><i>Action: Motion made and seconded to Open Public Hearing Public Hearing Opened Motion made and seconded to Close Public Hearing Public Hearing Closed Motion made and seconded for Approval Approved</i></b>	
<b><u>16-147</u></b>	<b><u>ORDER</u></b>	
	<b><i>Directing the City Manager to Take Possession of Vacant Land Located on Mill Street – Map 031 Lot 090</i></b>	<b>DURGIN</b>
	<b><i>Action: Motion made and seconded for Passage Passed</i></b>	
<b><u>16-148</u></b>	<b><u>ORDER</u></b>	
	<b><i>Directing the City Manager to Take Possession of Vacant Land Located on Finson Road – Map R21 Lot 008</i></b>	<b>SPRAGUE</b>
	<b><i>Action: Motion made and seconded for Passage Passed</i></b>	
<b><u>16-149</u></b>	<b><u>RESOLVE</u></b>	
	<b><i>Supporting the Greater Bangor Solarize Project</i></b>	<b>PLOURDE</b>
	<b><i>Action: Motion made and seconded for Passage Passed</i></b>	
<b><u>16-150</u></b>	<b><u>ORDER</u></b>	
	<b><i>Authorizing the Transfer of \$140,000 in FY 2016 Savings to Fund a Bangor Efficiency Pilot Program</i></b>	<b>PERRY</b>
	<b><i>Action: Motion made and seconded for Passage Passed</i></b>	
<b><u>16-151</u></b>	<b><u>ORDER</u></b>	
	<b><i>Authorizing the Establishment of a City Wide Wellness Program and the Solicitation of Funds for the Program</i></b>	<b>BALDACCI</b>
	<b><i>Action: Motion made and seconded for Passage Passed</i></b>	
<b><u>16-152</u></b>	<b><u>ORDER</u></b>	
	<b><i>Authorizing Bid Award in the Amount of \$164,700 to Vaughn D. Thibodeau II, Inc for Maine Avenue Sewer Reconstruction</i></b>	<b>NEALLEY</b>
	<b><i>Action: Motion made and seconded for Passage Passed</i></b>	
	<b><i>Motion made and seconded to Suspend the Rules to take up Resolve 16-153. Passed</i></b>	

**MINUTES OF REGULAR MEETING BANGOR CITY COUNCIL – APRIL 11, 2016**

---

**NEW BUSINESS  
ITEM NO.**

**ASSIGNED TO  
COUNCILOR**

**16-153**

**RESOLVE**

***Ratifying Action by the City Manager to Obtain a Discharge of  
Obligations of the City to the Maine State Housing Authority Under a  
1995 Grant Agreement and Declaration of Covenants – Park Woods***

**GRAHAM**

***Action: Motion made and seconded for Passage  
Passed***

Attest:

  
\_\_\_\_\_  
Lisa J. Goodwin, MMC, City Clerk

## **FINANCE COMMITTEE MINUTES**

**April 11, 2016 @ 5:15 PM**

**Councilors in Attendance: Sprague, Graham, Durgin, Faircloth, Nichols, Perry, Nealley**

**Staff in Attendance: Cyr, Conlow, Theriault, Wardwell, Farrar, Riitano, Costello, Higgins, Linscott**

### **1. Bids/Purchasing**

- a. Maine Ave Sewer Reconstruction – Engineering – Vaughn D. Thibodeau II, Inc - \$164,700

Motion made and seconded to recommend contract award to full Council.  
Motion passed unanimously.

- b. Led Streetlight Fixtures – Public Works – Gilman Electric - \$157/fixture

Motion made and seconded to recommend contract award to full Council.  
Motion passed unanimously.

### **2. Fire Training Facility Grants**

Staff reviewed recent grant awards for the fire training facility from Penobscot EMA and Maine Fire Service Institute. Neither grant requires any local match.

Motion made and seconded to recommend acceptance of the grants to the full Council. Motion passed unanimously.

### **3. Fixing America's Surface Transportation (FAST) Grant Application**

Staff reviewed a recent grant opportunity to obtain federal funding for busses and facilities. The City has applied for similar grants in the past but to date no funds have been awarded to it. The notice provided very little time to submit the application. Staff is working with both EMDC and the Maine DOT Planning Bureau to obtain the required expertise to assist in the grant writing process. Motion was made and seconded to recommend approval of the application to the full Council. Motion passed unanimously.

### **4. Transfer of Unassigned Fund Balance to Capital Fund Balances**

Staff reviewed a proposed Council Order to transfer \$1.1 million from the City's unassigned fund balance to various capital reserves. This Order comes forth after the recent review of the June 30, 2015 results as well as

the completion of the recommended budget process. By transferring the funds to various reserves, capital items can be funded for FY 2017 by not increasing the amount needed from property taxes. In addition, strategic funding of both the Bus and Fire Equipment reserves will allow for future capital needs based on the recently submitted five year capital plans. During difficult budget years, the City removed the funding of capital from its operating budget. The City has been fortunate that funds have been available within the City's unassigned fund balance to fund one time capital costs.

Motion was made and seconded to recommend passage of the Order to the full Council. Motion passed unanimously.

Meeting adjourned at 5:33 pm

## **BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE**

Tuesday, April 19, 2016 5:15 PM  
City Council Chambers

### **Minutes**

Committee Members Present: Councilors Graham, Faircloth, Plourde, Nealley, Durgin.

City Staff Present: Steve Bolduc, Norman Heitmann, Paul Nicklas, Tyler Collins, Jeremy Martin, Cathy Conlow.

Chair Graham called the meeting to order at 5:15 pm.

1. **REFERRAL – COUNCIL ORDINANCE 16-146**

Councilor Nealley recommending to the City Council, Councilor Plourde seconded the motion, which passed as it was not doubted.

2. **Penobscot Community Health Care – Union Street Property** (see attached Memo)

Councilor Nealley recommending passage to City Council, Councilor Durgin seconded. Vote unless doubted, no doubt.

Ed Marsh spoke.

Meeting was adjourned at 5:39 pm.

Respectfully submitted,

Melissa L. Bickford  
Administrative Assistant  
Community & Economic Development

**COUNCIL ACTION**

**Item No. 16-154**

**Date:** April 25, 2016

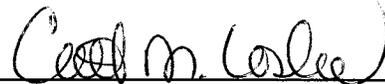
**Item/Subject:** ORDER, Authorizing Execution of Municipal Quitclaim Deed – Real Estate  
Located at 53 Webster Avenue North (Map 22 Lot 13)

**Responsible Department:** Legal

**Commentary:**

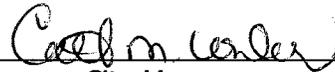
In 2011, a sewer lien was filed on the property of Jennifer and Daniel Searway of 53 Webster Avenue North. At some point the charges were paid but a discharge of the lien was never recorded. Therefore a municipal quitclaim is required to clear title to the property. There are no outstanding real estate taxes or code issues.

Staff recommends approval



Department Head

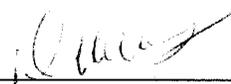
**Manager's Comments:**



City Manager

**Associated Information:**

**Budget Approval:**



Finance Director

**Legal Approval:**



City Solicitor

**Introduced for Consent Agenda**

- Passage
- First Reading
- Referral



Assigned to Councilor Nealley

## CITY OF BANGOR

---

**(TITLE.) ORDER,** Authorizing Execution of Municipal Quitclaim Deed – Real Estate  
Located at 53 Webster Avenue North (Map 22 Lot 13)

*By the City Council of the City of Bangor:*

**ORDERED,** Deborah A. Cyr, Finance Director, is hereby authorized and directed, on behalf of the City of Bangor, to execute a Municipal Quitclaim Deed releasing any interest the City may have by virtue of an undischarged sewer lien recorded in the Penobscot County Registry of Deeds in Book 12675, Page 232. Said deed shall be directed to Jennifer K. Searway and Daniel M. Searway in final form approved by the City Solicitor or Assistant City Solicitor.

**COUNCIL ACTION**

**Item No. 16-155**

**Date:** April 25, 2016

**Item/Subject:** **Order**, Authorizing the City Manager to Accept \$2,947.00 in U.S. Currency, or a Portion Thereof, as a result of a State Criminal Forfeiture.

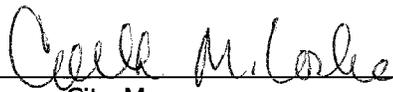
**Responsible Department:** Police

**Commentary:**

This order authorizes the City Manager to accept and transfer \$2,947.00 State Criminal Forfeiture Funds. Members of the Bangor Police Department were instrumental in an arrest leading to the seizure of drugs, cash and property that was subsequently forfeited by the individual who was arrested. As a result, the City is entitled to a portion of the seized funds. This Order will authorize the acceptance of the funds and the execution of the approval of the fund transfer.

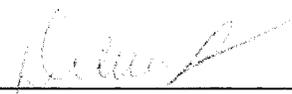
\_\_\_\_\_  
Department Head

**Manager's Comments:**

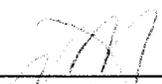
  
\_\_\_\_\_  
City Manager

**Associated Information: Order**

**Budget Approval:**

  
\_\_\_\_\_  
Finance Director

**Legal Approval:**

  
\_\_\_\_\_  
City Solicitor

**Introduced for Consent Agenda**

- Passage**
- First Reading**
- Referral**

Assigned to Councilor Perry



## CITY OF BANGOR

---

**(TITLE.) ORDER,** Authorizing the City Manager to Accept \$2,947.00 in U.S. Currency, or a Portion Thereof, as a result of a State Criminal Forfeiture

*By the City Council of the City of Bangor:*

**ORDERED,** THAT the City Manager is authorized to accept \$2,947.00 in U.S. currency, or a portion thereof, as a result of a State criminal forfeiture and deposit it in the State Forfeiture Account (60020309050).

**COUNCIL ACTION**

**Item No. 16-156**

**Date: 4-25-16**

**Item/Subject: ORDER, Accepting the City of Bangor's Comprehensive Annual Financial Report for the Year Ended June 30, 2015**

**Responsible Department:** Finance

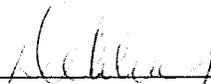
**Commentary:**

The attached Order accepts the City's Comprehensive Annual Financial Report (CAFR) including its General Purpose Financial Statements and the Independent Auditor's unqualified opinion as prepared by Runyon Kersteen Ouellette of South Portland, Maine.

In accordance with State law, the City prepares this annual financial statement through an independent audit firm. Based upon the audit findings, the City received an unqualified opinion that the financial statements are fairly stated in all material respects. Additionally, no material weaknesses have been identified related to the City's internal controls.

For the past eighteen years, the City has been awarded the Government Finance Officers Associations (GFOA) Certificate of Achievement for Excellence in Financial Reporting. As such, this CAFR has been submitted to GFOA for their consideration.

At this time staff and the Manager recommend approval. The Finance Committee met with the City's auditors and reviewed the various reports on March 7, 2016.

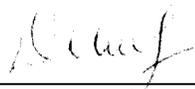
  
\_\_\_\_\_  
Department Head

**Manager's Comments:**

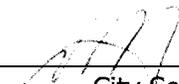
  
\_\_\_\_\_  
City Manager

**Associated Information:** Order

**Budget Approval:**

  
\_\_\_\_\_  
Finance Director

**Legal Approval:**

  
\_\_\_\_\_  
City Solicitor

**Introduced for**

- Passage - Consent**
- First Reading**
- Referral**

**Page \_\_ of \_\_**

Assigned to Councilor Durgin



## CITY OF BANGOR

---

**(TITLE.) Order, Accepting the City of Bangor's Comprehensive Annual Financial Report for the Year Ended June 30, 2015**

*By the City Council of the City of Bangor:*

**ORDERED,** that the City of Bangor's Comprehensive Annual Financial Report, including its General Purpose Financial Statements for the year ended June 30, 2015 as prepared by City Finance staff and the Independent Auditor's Report thereon, prepared by Runyon Kersteen Ouellette, is hereby accepted in its entirety.

Date: April 25, 2016

Item/Subject: ORDER, Authorizing Contract Award for LED Streetlight Fixtures to Gilman Electric

Responsible Department: Public Services

**Commentary:**

On March 30, 2016, the City received seven (7) bids for the supply of LED streetlight fixtures. Of the seven bids received only two met the requirement fixture specifications, Wesco Distribution and Gilman Electric. The bid prices ranged from \$157 to \$165.50/per fixture for the specified unit (see attached bid tabulation).

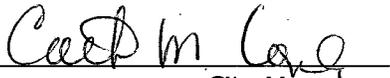
This bid ws issued to purchase LED streetlight fixtures to be partially rebated through the Efficiency Maine large customer program. Funding for these fixtures is included in the proposed FY 2017 budget, but some work may occur during this year from available FY 2016 funds.

This item was reviewed and recommended for approval by the Finance Committee on April 11, 2016.

This item comes forward for Council approval, as this supply contract may result in purchases in excess of \$100,000.

\_\_\_\_\_  
Department Head

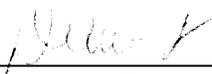
**Manager's Comments:**

  
\_\_\_\_\_  
City Manager

**Associated Information:**

Bid Tabulation

**Budget Approval:**

  
\_\_\_\_\_  
Finance Director

**Legal Approval:**

  
\_\_\_\_\_  
City Solicitor

**Introduced for**

- Passage - Consent
- First Reading
- Referral

16-157  
APRIL 25, 2016



Assigned to Councilor Nealley

## CITY OF BANGOR

---

(TITLE.) **Order, Authorizing Contract Award for LED Streetlight Fixtures to Gilman Electric**

*By the City Council of the City of Bangor:*

**ORDERED,**

THAT, Deborah Cyr, Finance Director is hereby authorized to execute a contract with Gilman Electric for LED streetlight fixtures.

City of Bangor Bid Tabulation  
 Proposal No.: P16-024: LED Streetlight Fixtures  
 Bid Opening: 03/30/16 Revised

		<b>Wesco Distribution, Inc. Bangor, ME</b>	<b>Demand Lighting Austin, TX</b>	<b>Demand Lighting Austin, TX</b>	<b>Demand Lighting Austin, TX</b>	<b>Ozark LED, LLC Springfield, MO</b>
<b>Description</b>	<b>Qty.</b>	Total Price	Total Price	Total Price	Total Price	Total Price
			<i>Option 1</i>	<i>Option 2</i>	<i>Option 3</i>	
LED Streetlight Fixutre (including bulb)	Ea.	\$165.50	\$314.67	\$262.74	\$321.29	\$264.00
Warranty:		120 months	120 months	120 months	120 months	120 months
Earliest Delivery:		2 weeks	5 weeks	5 weeks	5 weeks	4-8 weeks
Product Number:		CREE BXSP-B-HT-2ME-A-57K-UL-SV-R	DLA60-T2M-57K-GR-00	SDLIA60-T2M-57K-GR-00	BXSP-B-HT-2ME-A-57K-EL-SV-R	BXSP-B-HT-2ME-A-57K-UL-SV-R

		<b>Excellence Opto c/o E.L. Flowers &amp; Associates Sturbridge, MA</b>	<b>Horizon Solutions Scarborough, ME</b>	<b>Nardi Lighting Company Winterport, ME</b>	<b>CED/Gilman Electrical Supply Bangor, ME</b>
<b>Description</b>	<b>Qty.</b>	Total Price	Total Price	Total Price	Total Price
LED Streetlight Fixutre (including bulb)	Ea.	\$150.00	\$158.02	\$176.00	\$157.00
Warranty:		120 months	10 years	120 months	120 months
Earliest Delivery:		3-4 weeks	3-4 weeks	4-6 weeks	2 weeks
Product Number:		ESU-DA012MO16505-105CAU1-151NN	ATBS-G-MVOLT-R2-5K-MP-NL-P7	BXSP-B-HT-2ME-A-57K-UL-SV-R	BXSP-B-HT-2ME-A-57K-UL-SV-R

**COUNCIL ACTION**

**Item No. 16-158**

**Date:** April 25, 2016

**Item/Subject:** **ORDER,** Authorizing Execution of Documents to Amend Conditions in Deed  
From City of Bangor to Penobscot Community Health Care – Union Street

**Responsible Department:** Legal

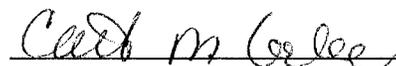
**Commentary:**

This Order will authorize the execution of documents with Penobscot Community Health Care necessary to extend time to comply with the deed conditions from June 2016 to June 16, 2018. By deed dated June 16, 2009, the City conveyed to Penobscot Community Health Care (PCHC) approximately one-half acre of vacant land abutting its Bangor Medical Center complex on Union Street. A condition of the deed was that the land was to be used only for the purpose of meeting impervious surface ratio requirements of the City of Bangor Land Development Code to construct additional parking on its complex or to construct parking on the conveyed parcel or both and for no other purposes. The deed also included a condition that if it is not done within five years of the date of the deed the property reverts to the City in return for the purchase price.

In 2014 Penobscot Community Health Care requested an amendment to the conditions and the deed to give it an additional two years to comply with the requirement that it use the property. The development planned by Penobscot Community Health Care did not take place as quickly as it had anticipated and it will not be able to comply with the deed conditions in the time required. Penobscot Community Health Care has asked for additional time of another two years to comply with the deed conditions. This item was reviewed and recommended for approval at the Business and Economic Development meeting of April 19, 2016.

\_\_\_\_\_  
Department Head

**Manager's Comments:**

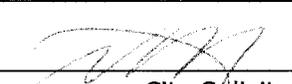
  
\_\_\_\_\_  
City Manager

**Associated Information:**

**Budget Approval:**

\_\_\_\_\_  
Finance Director

**Legal Approval:**

  
\_\_\_\_\_  
City Solicitor

**Introduced for**

- Passage
- First Reading
- Referral

Page \_\_ of \_\_

Assigned to Councilor Graham



## CITY OF BANGOR

---

**(TITLE.) ORDER,** Authorizing Execution of Documents to Amend Conditions in Deed From City of Bangor to Penobscot Community Health Care – Union Street

WHEREAS, by deed dated June 16, 2009 the City of Bangor conveyed to Penobscot Community Health Care a parcel of vacant land abutting its Bangor Medical Complex on Union Street; and

WHEREAS, said deed included a condition that within five years the land was to be used only for the purpose of meeting impervious surface ratio requirements or to construct additional parking, or both, to serve its Bangor Medical Complex; and

WHEREAS, said deed included a provision that the property would revert back to the City and the City would return the purchase price if the condition was not met; and

WHEREAS, in 2014 Penobscot Community Health Care requested an amendment to the conditions and the deed to give it an additional two years to comply with the requirement that it use the property; and

WHEREAS, the development planned by Penobscot Community Health Care did not take place as quickly as it had anticipated and it will not be able to comply with the deed conditions in the time required; and

WHEREAS, Penobscot Community Health Care has asked for additional time to comply with the deed conditions; and

*By the City Council of the City of Bangor:*

**ORDERED,**

THAT Catherine M. Conlow, City Manager, is hereby authorized on behalf of the City of Bangor to execute any document necessary to extend the time that Penobscot Community Health Care has to comply with the conditions contained in the June 16, 2009 deed from the City of Bangor to Penobscot Community Health Care to June 16, 2018. Said documents shall be in a final form as approved by the City Solicitor.

**COUNCIL ACTION**

**Item No. 16-159**

**Date: April 25, 2016**

**Item/Subject: ORDER, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – Union Street and Fourteenth Street Intersection Improvements, WIN 20896.00**

**Responsible Department: Engineering**

**Commentary:**

This order would authorize the City Manager to execute a Local Project Agreement with the Maine Department of Transportation for replacement of traffic signals at the intersection of Union Street (Route 222) and Fourteenth Street and construction of a right-turn lane from Fourteenth Street onto Union Street.

The Maine Department of Transportation has approved funds in an amount not to exceed \$240,865.00. The total State/Federal share of 90% is equal to \$216,778.50, and the Municipality share of 10% is equal to \$24,086.50. As a condition of this funding, the City is required to enter into a Local Project Agreement with the Maine Department of Transportation. This item was reviewed and recommended for approval at the Infrastructure Committee meeting on April 12, 2016.

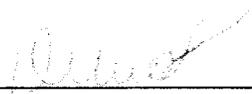
John M. Theriault, City Engineer  
Department Head

**Manager's Comments:**

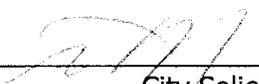
  
City Manager

**Associated Information:** Council Order, Agreement

**Budget Approval:**

  
Finance Director

**Legal Approval:**

  
City Solicitor

**Introduced for**

- Passage**
- First Reading**
- Referral**

Assigned to Councilor Sprague



## CITY OF BANGOR

---

**(TITLE.) Order, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – Union Street and Fourteenth Street Intersection Improvements, WIN 20896.00**

(TITLE.) ORDER, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – WIN #20896.00, Union Street and Fourteenth Street Improvement Project

ORDERED,

THAT: the City Manager is hereby authorized and directed to execute an agreement with the Maine Department of Transportation for the following:

An Agreement with the Maine Department of Transportation – Union Street and Fourteenth Street Improvements, WIN #20896.00

Copy of the agreement is attached.


**MaineDOT**

AMS ID: \_\_\_\_\_

CSN: \_\_\_\_\_

TEDOCS #: \_\_\_\_\_

PROGRAM: Multimodal (OUC 57000)

**MAINE DEPARTMENT OF TRANSPORTATION  
Locally Administered Project Agreement**

With the

**City of Bangor**

Regarding

**Improvements at Union Street (Route 222) and 14<sup>th</sup> Street**

Total Amount: \$240,865

Federal Share: \$192,692

State Share: \$24,086.50

Bangor Share: \$24,086.50

Effective Date: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

MaineDOT WIN: 20896.00

Federal Project #: \_\_\_\_\_

Federal Authorization Date: \_\_\_\_\_

Bangor's Vendor ID: VC1000007010

Bangor's DUNS® Number: 07-173-9692

CFDA #20.205: Highway Planning &amp; Construction

This subaward agreement for a federal-aid project is between the Maine Department of Transportation, an agency of the State of Maine with headquarters at 24 Child Street in Augusta, Maine ("MaineDOT"), and the City of Bangor, a body corporate and politic with its principal offices at 73 Harlow Street in Bangor, Maine ("the City.")

This Agreement contains the following attachments:

1. Federal Funding Accountability and Transparency Act (one page, signature required);
2. Federal Title VI Assurances (five pages, signature required);
3. Requirements for operation and maintenance of traffic signals and equipment.

WHEREAS, the scope of work set forth in Article 1A below was programmed for the **MaineDOT** 2016-2018 Work Plan by the Bangor Area Comprehensive Transportation System, the designated metropolitan planning organization for the Bangor Urbanized Area, with its administrative offices at 12 Acme Road, Suite 102, in Brewer, Maine ("**BACTS**"); and

WHEREAS, **MaineDOT** accepted the **City's** request to undertake the work as a locally administered project, based on the **City's** record of delivering such projects successfully.

NOW, in consideration of the previous statements, **MaineDOT** and the **City** ("the **Parties**") agree to the following terms:

## **ARTICLE 1 – PROJECT OVERVIEW**

1A. SCOPE OF WORK. **BACTS** programmed upgrades to the intersection of Union Street (Route 222) and 14<sup>th</sup> Street consisting of replacement of traffic signals and construction of a right-turn lane from 14<sup>th</sup> Street onto Union Street ("the **Project**." Any change to this scope of work shall require approval from **BACTS** and **MaineDOT** to qualify for federal and state funding.

- 1B. FUNDING. **BACTS** programmed a total of two hundred forty thousand eight hundred sixty-five dollars (**\$240,865**) for the **Project** to be shared as set forth in Article 3, "Financial Provisions." **Project** costs exceeding this amount shall require approval from **BACTS** and **MaineDOT** to qualify for state and federal funding.
- 1C. ROLE OF CITY. The **City** shall assign a full-time employee with certification from **MaineDOT** to manage the **Project** and carry out the **City's** responsibilities. This Local Project Administrator shall follow the guidance in the latest edition of **MaineDOT's** Local Project Administration Manual. If the certified administrator leaves the **City** or ceases to oversee the **Project**, the **City** shall stop work and notify the **MaineDOT** Project Manager. **MaineDOT** will evaluate the situation and determine a course of action.
- The **City** has assigned the following person to serve as Local Project Administrator:  
Ted Trembley, Project Engineer  
City of Bangor, Engineering Department  
Phone: (207) 992-4251  
Email: [ted.trembley@bangormaine.gov](mailto:ted.trembley@bangormaine.gov)
- 1D. ROLE OF MAINEDOT. **MaineDOT** will assign a Project Manager to carry out the State of Maine's responsibilities. This person or a designee will have the authority to request design changes to meet applicable laws and design standards; accept or reject invoices; review construction activities to ensure compliance with contract documents; and take all other action needed to ensure the proper performance of this Agreement.
- MaineDOT** has assigned the following person to serve as Project Manager:  
Catherine Rand, Project Manager I  
Bureau of Project Development, Multimodal Program  
Phone: (207) 634-3451 / (207) 557-1662  
Email: [Catherine.Rand@maine.gov](mailto:Catherine.Rand@maine.gov)

## **ARTICLE 2 – PROJECT DEVELOPMENT**

---

- 2A. AUTHORIZATION. The **City** shall receive Notice to Proceed from **MaineDOT** before starting reimbursable work or executing any contract for services for the **Project**. This notice shall be issued after **MaineDOT** receives authorization for federal financial participation in the **Project** and executes this Agreement.
- 2B. KICKOFF. The **City** shall hold a project kickoff with **MaineDOT** to go over the scope of work, estimated cost, schedule, and legal requirements before any work begins.
- 2C. PROGRESS REPORTS. The **City** shall provide **MaineDOT** with regular progress reports for the **Project** at intervals established by **MaineDOT's** Project Manager.
- 2D. CONSULTANT SERVICES. The **City** may contract for consultant services to assist with delivery of the **Project**. In doing so, the **City** shall:
1. Use a qualifications-based process, in accordance with federal regulation 23 CFR, Section 172, "Administration of engineering and design-related service contracts."
  2. Obtain the **MaineDOT** Project Manager's approval before awarding a contract.
  3. Incorporate the "Consultant General Conditions for Local Public Agencies" into all contracts for services.

4. Obtain **MaineDOT's** written approval before modifying a contract. **MaineDOT shall not reimburse the City for work performed under a modification executed without prior approval or work performed before the effective date of a modification.**

2E. DESIGN WORK. The **City** shall develop all design plans, specifications, estimates and contract documents for the **Project**, in accordance with **MaineDOT's** Engineering Instructions, Highway Design Guide and Standard Specifications, unless **MaineDOT** approves the use of alternative standards in writing, as follows:

1. The **City** shall submit a preliminary design report, if applicable, and the final plans, specifications and estimate (PS&E) package to **MaineDOT** for review and comment.
2. The **City** shall address, to **MaineDOT's** satisfaction, changes requested or concerns expressed before **MaineDOT** will authorize the **City** to advertise for construction bids. Advertising for bids or otherwise proceeding to construction without **MaineDOT's** written authorization shall render the **Project** ineligible for federal funding.
3. **MaineDOT's** acceptance of the PS&E package shall not relieve the Engineer of Record, whether a **City** employee or consultant, of responsibility for the quality of the engineering documents for the **Project**.

2F. PUBLIC PARTICIPATION. The **City** shall provide the public and all abutters with opportunity to learn about the **Project** and express concerns, using a public process that is appropriate for the scope of work and acceptable to the MaineDOT Project Manager. A public process certification (Letter 16) shall be part of the final PS&E package.

2G. ENVIRONMENTAL PROCESS. The **City** shall prepare and submit to **MaineDOT** all required environmental documents, including but not limited to Letter 11 and the National Environmental Policy Act (NEPA) checklist. **MaineDOT** will prepare and submit to the Federal Highway Administration all documentation required under NEPA.

2H. PERMITS. The **City** shall obtain all required approvals, permits and licenses for the **Project**. The **City** shall submit copies of all such documents and an environmental certification (Letter 12) to **MaineDOT** with the final PS&E package.

2I. UTILITIES. The **City** shall coordinate the **Project** with all utilities and any railroad that may be affected by the work. The **City** shall submit a utility certification (Letter 13) to **MaineDOT** with the final PS&E package, in accordance with federal regulation 23 CFR, Section 635.609, "Authorization." MaineDOT's Utility Accommodation Rules (2014) shall apply to all required utility relocations.

2J. RIGHT OF WAY. If permanent or temporary property rights will need to be acquired for the **Project**, **MaineDOT** will carry out the right-of-way process. **MaineDOT's** Chief Property Officer shall approve any alternative procedure in writing. If applicable, the **City** shall dedicate to the **Project** any municipal land required for the **Project**.

2K. FORCE ACCOUNT. If the **City** intends to use municipal labor or materials for the **Project**, the **City** shall obtain **MaineDOT's** authorization to use a "force account" process before proceeding. If so authorized, the **City** shall comply with federal regulation 23 CFR, sections 635.201 to 635.205: "Force account construction."

- 2L. SOLICITATION OF BIDS. The **City** shall use competitive bidding to hire a construction contractor unless **MaineDOT** approves a “force account” process. Upon **MaineDOT**’s written authorization, the **City** shall advertise for bids, as follows:
1. The **City** shall follow the procedures in **MaineDOT**’s Standard Specifications (November 2014 Edition), Section 102, “Bidding.”
  2. The **City** shall submit bid tabulations to **MaineDOT** for review and shall obtain **MaineDOT**’s written approval before awarding a contract.
- 2M. CONTRACT AWARD. Upon receiving **MaineDOT**’s written approval, the **City** shall award a contract to the lowest responsive and responsible bidder in accordance with **MaineDOT**’s Standard Specifications (November 2014 Edition), Section 103, “Award and Contracting.” The **City** shall administer the contract for the duration of the **Project**.
- 2N. CONSTRUCTION. The **City** shall hold a pre-construction meeting with **MaineDOT**, the contractor, utilities and any other parties involved in the construction work. The **City** shall provide the supervision, inspection and documentation necessary to ensure that the **Project** is completed to **MaineDOT**’s satisfaction in accordance with the final plans, specifications, special provisions and contract provisions, as follows:
1. The **City** shall coordinate materials testing to meet the Minimum Testing Requirements for the **Project**, in compliance with federal regulation 23 CFR, section 637, “Quality Assurance Procedures for Construction.”
  2. The **City** shall submit construction contract modifications to **MaineDOT** for review and comment before they are executed. ***MaineDOT** reserves the right not to reimburse the **City** for work under contract modifications executed without **MaineDOT**’s review.*
  3. If applicable, the **Town** shall provide **MaineDOT** with a set of revised as-built plans within 90 days of completion of construction.
- 2O. MAINE DOT OVERSIGHT. **MaineDOT** may inspect construction activities and documentation – and test materials used – to ensure compliance with the **Project** specifications and construction contract. **MaineDOT** may reject work or materials out of compliance and withhold reimbursement to the **City** for such work or materials.
- 2P. MAINTENANCE. The **City** shall operate and maintain the traffic signals at the intersection in accordance with the provisions of Attachment 3, “Operation and Maintenance of Traffic Signals.”

### **ARTICLE 3 – FINANCIAL PROVISIONS**

---

- 3A. MAINE DOT SHARE. **MaineDOT**, using federal and state funding programmed by **BACTS**, will share in the cost of the **Project** at the rate of ninety percent (**90%**), up to a maximum contribution of two hundred sixteen thousand seven hundred seventy-eight dollars and fifty cents (**\$216,778.50.**)
- 3B. LOCAL SHARE. The **City** shall share in all federally eligible **Project** costs at the rate of ten percent (**10%**), or an estimated twenty-four thousand eighty-six dollars and fifty cents (**\$24,086.50.**) Furthermore, the **City** exclusively shall be responsible for expenditures:
1. Incurred before the date of Notice to Proceed;

2. Deemed ineligible for federal financial participation; and
3. Exceeding the upset limit of this Agreement, as set forth in Article 1B, "Funding."

3C. MAINEDOT COSTS. Costs that **MaineDOT** incurs for work on the **Project** shall be paid for out of the **Project**. The **City** shall share in these costs as set forth in Article 3B, "Local Share." **MaineDOT** will reconcile these costs upon completion of the **Project** and deduct the **City's** share from the final invoice payment.

3D. REIMBURSEMENT. **MaineDOT** will reimburse the **City** for federally eligible costs incurred on the **Project** at the rate in Article 3A, "MaineDOT Share." The **City** shall bill **MaineDOT** no more than monthly but no less than quarterly, subject to these conditions:

1. The **City** shall submit Invoices on letterhead and reference WIN 20896.00.
2. **MaineDOT** will make no payment unless the **City** has incurred a cost and submitted to MaineDOT the receipted invoice and proof of payment, including a breakdown of the charges incurred in sufficient detail to satisfy the MaineDOT Project Manager.
3. Each invoice must include a progress report in accordance with Article 2C.
4. Each invoice must show **MaineDOT's** and the **City's** shares of **Project** costs, including a running total of all costs incurred to date.
5. The **City** must certify that amounts claimed are correct and not claimed previously.
6. Payment of the final invoice shall be contingent upon a final inspection of the completed **Project** to determine the acceptability of the work.

3E. REPAYMENT. If the **City** withdraws from the **Project** without concurrence from **MaineDOT**, leading to termination of this Agreement for cause under Article 4, "Termination," the **City** shall refund all payments from **MaineDOT** toward the **Project** and reimburse **MaineDOT** for costs incurred for work on the **Project**. **MaineDOT** shall make available to **BACTS** all refunded federal and state money upon closeout of the **Project**.

3F. SET-OFF. **MaineDOT** may exercise all of its common law, equitable and statutory rights of set-off to recover payment to the **City** for work subsequently deemed to be ineligible for federal-aid funding. These rights will include, but will not be limited to, **MaineDOT's** option to withhold money owed to the **City** under this Agreement and any other agreement with **MaineDOT** or any other agency of the State of Maine, including any contract starting before the effective date of this Agreement.

3G. REMAINING FUNDS. Any federal and state funds remaining in the **Project** upon completion of the **Project** payment of the final invoice shall be made available to **BACTS**.

#### **ARTICLE 4 – TERMINATION**

---

4A. FOR CAUSE. **MaineDOT** will have just cause to terminate this Agreement in the event of default by the **City**, as defined in Article 4B below. **MaineDOT** will afford the **City** a cure period of fourteen (14) calendar days, effective on the **City's** receipt of Notice of Default. If the **City** fails to address all defaults within this cure period, **MaineDOT** may terminate this Agreement for cause, with these conditions:

1. The **City** and all contracted parties shall stop work immediately – except for work required to protect public health and safety – and shall abide by the terms of Article 5 below regarding the treatment of records for the terminated **Project**.
2. If termination is the result of the **City**'s failure to correct any occurrence of default, **MaineDOT** shall recover from the **City** reimbursements made and **Project** costs incurred in accordance with Article 3E, "Repayment."
3. **MaineDOT** will make available to **BACTS** all federal and state funds remaining in the terminated **Project**, as well as all federal and state funds recovered from the **City**, in accordance with Article 3E, "Repayment."

4B. **DEFAULT**. **MaineDOT** shall send the **City** a Notice of Default if the **City**:

- Withdraws from the **Project** without written concurrence from **MaineDOT**; or
- Fails to provide matching funds as outlined in Article 3B, "Local Share"; or
- Makes inadequate progress within 18 months of execution of this Agreement; or
- Takes any action that renders the **Project** ineligible for federal-aid funding; or
- Uses **Project** funds for a purpose not authorized by this Agreement; or
- Misrepresents or falsifies of any claim for reimbursement; or
- Fails to meet standards of performance outlined in this Agreement.

4C. **FOR CONVENIENCE**. The **Parties** may terminate this Agreement for convenience by mutual consent for any reason not defined as "default," as follows:

1. In case of Termination for Convenience, **MaineDOT** will reimburse the **City** for federally eligible work performed until the effective termination date. The **City**'s share of **MaineDOT**'s costs for work on the **Project** shall be deducted from amounts due to the **City** in accordance with Article 3C, "MaineDOT Costs."
2. All **Project** records shall be handled in accordance with the terms of Article 5 below.
3. **MaineDOT** will make available to **BACTS** all federal and state funds remaining in the terminated **Project**, in accordance with Article 3G, "Remaining Funds."

## **ARTICLE 5 – RECORDS & AUDIT**

---

- 5A. **Project** records are printed or electronic plans, specifications, contracts, reports, notes, or other documents prepared by or for the **City**. The **City** shall retain all such records for at least **five (5) years** from the date of **MaineDOT**'s acceptance of the final invoice for the **Project**. If any litigation, claim, negotiation or audit has begun before the end of this five (5) year period, all such records shall be kept at least until all action and resolution of all issues arising from it are complete. After completion or termination of the **Project**, all such records shall be provided to **MaineDOT** within thirty (30) days of receipt of any request.

- 5B. The **City** and any consultant or contractor working on its behalf shall allow authorized representatives of the Federal Government and the State of Maine to inspect and audit **Project** records at reasonable times. Copies shall be furnished at no cost.
- 5C. Audits shall be performed in accordance with federal regulation 2 CFR, Section 200, Subpart F - "Audit Requirements."

## **ARTICLE 6. GENERAL PROVISIONS**

---

- 6A. GOVERNING LAW. This Agreement is made and shall be construed under the laws of the State of Maine. Since this Agreement covers a **Project** employing federal-aid funds, all activities under this document shall be performed in accordance with applicable federal regulations, including but not limited to 23 CFR, "Highways"; 49 CFR, "Transportation"; and 2 CFR, Section 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."
- 6B. INDEMNIFICATION. To the extent allowed by law, the **City** shall indemnify, defend and hold harmless **MaineDOT**, its officers, agents and employees from all claims, suits or liabilities arising from negligent or wrongful act, error or omission by the **City**, its officers, employees, agents, consultants or contractors. Nothing in this article shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or other privileges or immunities provided by law.
- 6C. CONFIDENTIALITY. The **City** shall protect the confidentiality of right-of-way negotiations, property appraisals, and engineering estimates of the cost to construct the **Project**, in accordance with the provisions of Title 23 of the Maine Revised Statutes Annotated (MRSA), Section 63, "Confidentiality of records ... ."
- 6D. INDEPENDENT CAPACITY. The **City**, its employees, agents, representatives, consultants and contractors shall not act as officers, employees or agents of **MaineDOT**.
- 6E. FLOW DOWN. Contracts between the **City** and all third parties shall contain or incorporate by reference applicable provisions of this Agreement.
- 6F. EQUAL EMPLOYMENT OPPORTUNITY. The **City** shall adhere to all EEO requirements in the administration of the **Project**, as follows:
1. The **City** shall not discriminate against any employee or applicant for employment *relating specifically to work under this Agreement* because of race, color, religious creed, sex, national origin, ancestry, age, sexual orientation or disability unless related to a bona fide occupational qualification. The **City** shall take affirmative action to ensure that all such applicants are employed and that all such employees are treated regardless of their race, color, religious creed, sex, national origin, ancestry, age or disability during any period of employment under this Agreement.
  2. In all solicitations or advertising for employees relating to work done under this Agreement, the **City** shall state that all qualified applicants shall receive consideration for employment regardless of race, color, religious creed, sex, national origin, ancestry, age, sexual orientation or disability.

3. The **City** shall include the previous EEO provisions under this Article in any contract for services or work for the **Project** so that such provisions are binding upon each consultant and contractor – with the exception of any contract for the purchase of standard commercial supplies or raw materials. To the maximum extent feasible, the **City** and its consultants and contractors shall list all suitable employment openings with the Maine Job Service.

6G. BINDING EFFECT. The **Parties** shall be bound by the terms of this Agreement, which shall apply to its executors, their successors, administrators and legal representatives.

6H. ENTIRE AGREEMENT. This document represents the entire Agreement between the **Parties**. Neither **MaineDOT** nor the **City** shall be bound by any statement, correspondence, agreement or representation not expressly contained in this Agreement.

## **ARTICLE 7. DEBARMENT**

---

7A. The **City** certifies to the best of its knowledge and belief that it and its officers, agents and employees associated with the **Project** are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by the Federal Government. If the **City** cannot certify to this statement, it shall attach an explanation to this Agreement. For the term of this Agreement, the **City** shall notify **MaineDOT** promptly if it or any officer, agent or employee associated with the **Project** is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by the Federal Government.

7B. The **City** agrees that it shall not hire an outside entity that is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by the Federal Government.

7C. The **City** agrees that if it contracts with an outside entity, that entity and its principals shall certify that they:

1. Have not within a 3-year period preceding the date of such contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with the following: a.) obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; b.) violating federal or state antitrust statutes; and c.) committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
2. Are not currently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph 1 of this section; and
3. Have not within a 3-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

## **ARTICLE 8. CONFLICT OF INTEREST**

---

The **City** shall avoid contracting with an outside entity that has a financial or other interest in the **Project** or in its outcome, other than the performance of the contract. This prohibition applies to: a.) any agreement with, or other interest involving, third parties having an interest in the outcome of the **Project** that is the subject to the contract; b.) any agreement providing incentives or guarantees of future work on the **Project** or related matters; and c.) any interest in real property acquired for the **Project** unless such interest is disclosed to **MaineDOT** before the person or entity entered into the contract.

## **ARTICLE 9. EXPIRATION**

---

This Agreement shall expire upon satisfactory completion of the **Project** or **five (5) years** from the final day of the month in which this Agreement took effect, whichever occurs first, except as follows:

- Article 2P, "Maintenance," shall be enforced upon completion of the **Project** and after expiration of this Agreement in accordance with the terms of Attachment 3.
- Article 5, "Records & Audit," shall remain effective for at least five (5) years from completion of the **Project**.
- Article 6B, "Indemnification," shall survive the termination or expiration of this Agreement. It shall remain in place until terminated by the **Parties**.
- Article 6C, "Confidentiality," shall remain in effect until negated by law.

## **ARTICLE 10. AGREEMENT APPROVAL**

---

The undersigned municipal representative assures that the City Council of Bangor, Maine has approved the **City's** entry into this Agreement, has appropriated or authorized use of required matching funds, and has authorized the representative to sign this Agreement.

IN WITNESS WHEREOF, the **Parties** have executed this Agreement effective on the date last signed below.

**City of Bangor**

**Maine Department of Transportation**

By: \_\_\_\_\_  
**Catherine M. Conlow, City Manager**

By: \_\_\_\_\_  
**William A. Pulver, P.E., Director,**  
Bureau of Project Development

Date: \_\_\_\_\_

Date: \_\_\_\_\_

*I certify that the foregoing signature is true and accurate. I further certify – pursuant to 10 M.R.S.A. §9407 and §9502 – that the signature, if electronic: (a) is intended to have the same force as my manual signature; (b) is unique to me; (c) is capable of verification; and (d) is under my control.*

## Federal Funding Accountability and Transparency Act

The **City of Bangor, Maine** and its contractors may be subject to the provisions of the Federal Funding Accountability and Transparency Act of 2006 as amended and any regulations, policies, procedures and guidance documents adopted pursuant thereto or in connection therewith.

If the Federal portion of the **Project** exceeds \$25,000, an authorized representative from the **City** shall sign this document under (B) below and return it with the **Project** Agreement. Additionally, the **City** shall provide the following information, *if applicable*:

A) The total compensation and names of the top five officers if:

- More than 80% of the **City**'s annual gross revenues are from the U.S. Federal Government; and
- Those revenues are greater than \$25 million annually; and
- Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission (SEC).

B) Legal name and DUNS<sup>®</sup> number on file with the Central Contractor Registration (CCR):

**City of Bangor, Maine**

07-173-9692

Sign and Print Legal CCR Name

DUNS<sup>®</sup> Number

Authorized Representative: \_\_\_\_\_

**Catherine M. Conlow, City Manager**

**U.S. Department of Transportation (U.S. DOT)**  
Federal Highway Administration – Standard Title VI / Nondiscrimination Assurances

---

**DOT Order No. 1050.2A**

The **City of Bangor** (the "Recipient") **AGREES THAT**, as a condition of receiving Federal financial assistance from the U.S. Department of Transportation (U.S. DOT) through the Federal Highway Administration (FHWA), it is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory citations hereinafter are referred to as the "Acts" and "Regulations," respectively.

**General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from the U.S. DOT, including the FHWA.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Nondiscrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

**Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its federally assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

**ATTACHMENT 2**

*The City of Bangor, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.*

**3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or Agreement subject to the Acts and the Regulations.**

4. If applicable, the Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. If applicable, the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

**ATTACHMENT 2**

By signing this ASSURANCE, the Recipient also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA. You must keep records, reports, and submit the material for review upon request to the FHWA, or their designees in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation. This ASSURANCE is binding on the Recipient, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in it programs. The person signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

DATED \_\_\_\_\_

By \_\_\_\_\_  
**Catherine M. Conlow, City Manager**  
**City of Bangor**

Encl.: Appendices A and E

ATTACHMENT 2

TITLE VI ASSURANCES: APPENDIX A

During the performance of this contract, the *City*, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The *City* will comply with the Acts and the Regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement, as set forth in Appendix E to these Assurances.
2. **Nondiscrimination:** The *City*, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of consultants and contractors, including procurements of materials and leases of equipment. The *City* will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E to these Assurances, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the *City* for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential consultant or contractor will be notified by the *City* of the *City*'s obligations under this Agreement and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, as set forth in Appendix E to these Assurances.
4. **Information and Reports:** The *City* will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Maine Department of Transportation or the Federal Highway Administration, to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of the *City* is in the exclusive possession of another who fails or refuses to furnish the information, the *City* will so certify to the Maine Department of Transportation or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for noncompliance:** In the event of the *City*'s noncompliance with the Non-discrimination provisions of this Agreement, MaineDOT will impose such Agreement sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the *City* under the Agreement until the *City* complies; and/or
  - b. Cancelling, terminating, or suspending the Agreement, in whole or in part.

**Incorporation of Provisions:** The *City* will include the provisions of paragraphs one through five above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The *City* will take action with respect to any subcontract or procurement as the Maine Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the *City* becomes involved in, or is threatened with litigation by a consultant, contractor, or supplier because of such direction, the *City* may request the Maine Department of Transportation to enter into any litigation to protect the interests of the Maine Department of Transportation. In addition, the *City* may request the United States to enter into the litigation to protect the interests of the United States.

**TITLE VI ASSURANCES: APPENDIX E**

---

During the performance of this contract, the **City of Bangor**, for itself, its assignees, and successors in interest (hereinafter referred to as the “**City**”) agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. §4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. §324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. §794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. §6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. §471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. §47123) (prohibits discrimination on the basis of race, color, national origin and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

## OPERATION & MAINTANCE OF TRAFFIC SIGNALS

- A. The **City of Bangor** (“the **City**”) agrees to operate and maintain all traffic signals and related equipment installed pursuant to this Agreement to function as designed and installed as part of the above-referenced Locally Administered Project, WIN 020896.00, unless approved otherwise as hereinafter provided or as necessary as follows:
1. All malfunctions and deficiencies in the traffic signal or any equipment appurtenant thereto shall be repaired or corrected expeditiously in accordance with the Institute of Transportation Engineer’s (ITE) “Traffic Signal Installation and Maintenance Manual.” Any failure to correct the traffic **signal to function as designed could, upon written notification from the MaineDOT**, result in the **MaineDOT** making all necessary repairs at the **City’s** expense.
  2. The visibility of the traffic signal shall be preserved and maintained at all times by removing any visual impairment thereto.
  3. No change in operation or modification to the traffic signal or any equipment appurtenant thereto shall be made without the express written approval of the **MaineDOT**.
  4. The **MaineDOT** shall be notified in writing prior to any removal or replacement of the traffic signal or any equipment and appurtenant thereto. Upon removal, such traffic signal or equipment so removed shall be disposed of as deemed appropriate by mutual agreement of the MaineDOT and Municipality without any cost to the **MaineDOT**, unless agreed otherwise in writing.
- B. The **City** agrees to be responsible for the electrical service for the traffic signals and agrees to execute any necessary documentation required to establish such service and provide any local permits necessary for the installation of such service.
- C. The **City** agrees to maintain all pavement markings (including stop bars, lane use arrows and all striping necessary to delineate the turning lane) and all traffic control signs as furnished under the project.
- D. The **City** agrees to allow the contractor for the project to control all traffic within all designated work areas at such times and in such a manner necessary to permit construction of the project and the installation of the traffic signal as specified in the traffic control plan approved by the **MaineDOT**.

Date: April 25, 2016

Item/Subject: ORDER, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – Maine Avenue Resurfacing, WIN 20856.00

Responsible Department: Engineering

Commentary:

This order would authorize the City Manager to execute a Local Project Agreement with the Maine Department of Transportation for resurfacing of 0.57 mile of Maine Avenue from Johnson Street to Venture Way.

The Maine Department of Transportation has approved funds in an amount not to exceed \$657,828.00. The total State/Federal share of 90% is equal to \$592,045.20, and the Municipality share of 10% is equal to \$65,782.80. As a condition of this funding, the City is required to enter into a Local Project Agreement with the Maine Department of Transportation. This item was reviewed and recommended for approval at the Infrastructure Committee meeting on April 12, 2016.

John M. Theriault, City Engineer  
Department Head

Manager's Comments:

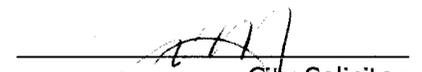
  
City Manager

Associated Information: Council Order, Agreement

Budget Approval:

  
Finance Director

Legal Approval:

  
City Solicitor

Introduced for  
 Passage  
 First Reading  
 Referral

Assigned to Councilor Plourde



## CITY OF BANGOR

---

**(TITLE.) Order, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – Maine Avenue Resurfacing, WIN 20856.00**

(TITLE.) ORDER, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – WIN #20856.00, Maine Avenue Resurfacing from Johnson Street to Venture Way.

ORDERED,

THAT: the City Manager is hereby authorized and directed to execute an agreement with the Maine Department of Transportation for the following:

**An Agreement with the Maine Department of Transportation – Maine Avenue Resurfacing, WIN #20856.00**

Copy of the agreement is attached.



<i>MaineDOT use only</i>	
AMS ID:	_____
CSN:	_____
TEDOCS #:	_____
PROGRAM:	Multimodal (OUC 57000)

**MAINE DEPARTMENT OF TRANSPORTATION  
Locally Administered Project Agreement**

With the  
**City of Bangor**  
Regarding

**Resurfacing of Maine Avenue: Johnson Street to Venture Way**

Total Amount: \$657,828	MaineDOT WIN: 20856.00
Federal Share: \$526,262.40	Federal Project #: _____
State Share: \$65,782.80	Federal Authorization Date: _____
Bangor Share: \$65,782.80	Bangor's Vendor ID: VC1000007010
Effective Date: _____	Bangor's DUNS® Number: 07-173-9692
Expiration Date: _____	CFDA #20.205: Highway Planning & Construction

This subaward agreement for a federal-aid project is made between the Maine Department of Transportation, an agency of the State of Maine with headquarters at 24 Child Street in Augusta, Maine ("MaineDOT"), and the City of Bangor, a body corporate and politic with its primary offices at 73 Harlow Street in Bangor, Maine ("the City.")

This Agreement contains the following attachments:

1. Federal Funding Accountability and Transparency Act (municipal signature required);
2. Federal Title VI Assurances (municipal signature required).

WHEREAS, the scope of work set forth in Article 1A below was programmed for the **MaineDOT** 2016-2018 Work Plan by the Bangor Area Comprehensive Transportation System, the designated metropolitan planning organization for the Bangor Urbanized Area, with its administrative offices at 12 Acme Road, Suite 102, in Brewer, Maine ("**BACTS**"); and

WHEREAS, **MaineDOT** accepted the **City's** request to undertake the work as a "locally administered project," based on the **City's** record of delivering such projects successfully.

NOW, in consideration of the previous statements, **MaineDOT** and the **City** ("the **Parties**") agree to the following terms:

**ARTICLE 1 – PROJECT OVERVIEW**

1A. SCOPE. **BACTS** programmed a resurfacing of 0.57 mile of Maine Avenue, from Johnson Street to Venture Way ("the **Project**." ) Any change to this scope of work shall require approval from **BACTS** and **MaineDOT** to qualify for federal and state funding.

1B. FUNDING. **BACTS** programmed a total of six hundred fifty-seven thousand eight hundred twenty-eight dollars (**\$657,828**) for the **Project** to be shared as set forth in Article 3, "Financial Provisions." **Project** costs exceeding this amount shall require approval from **BACTS** and **MaineDOT** to qualify for state and federal funding.

- 1C. **ROLE OF CITY.** The **City** shall assign a full-time employee with certification from **MaineDOT** to manage the **Project** and carry out the **City's** responsibilities. This Local Project Administrator shall follow the guidance in the latest edition of **MaineDOT's** Local Project Administration Manual. If the certified administrator leaves the **City** or ceases to oversee the **Project**, the **City** shall stop work and notify the **MaineDOT** Project Manager. **MaineDOT** will evaluate the situation and determine a course of action.
- The **City** has assigned the following person to serve as Local Project Administrator:  
Ted Trembley, Project Engineer  
City of Bangor, Engineering Department  
Phone: (207) 992-4251  
Email: [ted.trembley@bangormaine.gov](mailto:ted.trembley@bangormaine.gov)
- 1D. **ROLE OF MAINEDOT.** **MaineDOT** will assign a Project Manager to the **Project** to carry out the State of Maine's responsibilities. This person or a designee will have the authority to request design changes to meet applicable laws and design standards; accept or reject invoices; review construction activities to ensure compliance with contract documents; and take all other action necessary to ensure the proper performance of this Agreement.
- MaineDOT** has assigned the following person to serve as Project Manager:  
Catherine Rand, Project Manager I  
Bureau of Project Development, Multimodal Program  
Phone: (207) 634-3451 / (207) 557-1662  
Email: [Catherine.Rand@maine.gov](mailto:Catherine.Rand@maine.gov)

## **ARTICLE 2 – PROJECT DEVELOPMENT**

---

- 2A. **AUTHORIZATION.** The **City** shall receive Notice to Proceed from **MaineDOT** before starting reimbursable work or executing any contract for services for the **Project**. This notice shall be issued after **MaineDOT** receives authorization for federal financial participation in the **Project** and executes this Agreement.
- 2B. **KICKOFF.** The **City** shall hold a project kickoff with **MaineDOT** to go over the scope of work, estimated cost, schedule, and legal requirements before any work begins.
- 2C. **PROGRESS REPORTS.** The **City** shall provide **MaineDOT** with regular progress reports for the **Project** at intervals established by **MaineDOT's** Project Manager.
- 2D. **CONSULTANT SERVICES.** The **City** may contract for consultant services to assist with delivery of the **Project**. In doing so, the **City** shall:
1. Use a qualifications-based process, in accordance with federal regulation 23 CFR, Section 172, "Administration of engineering and design-related service contracts."
  2. Obtain the **MaineDOT** Project Manager's approval before awarding a contract.
  3. Incorporate the "Consultant General Conditions for Local Public Agencies" into all contracts for services.
  4. Obtain **MaineDOT's** written approval before modifying a contract. **MaineDOT** shall not reimburse the **City** for work performed under a modification executed without prior approval or work performed before the effective date of a modification.

- 2E. DESIGN WORK. The **City** shall develop all design plans, specifications, estimates and contract documents for the **Project** in accordance with applicable sections of **MaineDOT's** Engineering Instructions, Highway Design Guide, and Standard Specifications, unless **MaineDOT** approves the use of alternative standards in writing, as follows:
1. The **City** shall submit a preliminary design report, if applicable, and the final plans, specifications and estimate (PS&E) package to **MaineDOT** for review and comment.
  2. The **City** shall address, to **MaineDOT's** satisfaction, changes requested or concerns expressed before **MaineDOT** will authorize the **City** to advertise for construction bids. Advertising for bids or otherwise proceeding to construction without **MaineDOT's** written authorization shall render the **Project** ineligible for federal funding.
  3. **MaineDOT's** acceptance of the PS&E package shall not relieve the Engineer of Record, whether a **City** employee or consultant, of responsibility for the quality of the engineering documents for the **Project**.
- 2F. PUBLIC PARTICIPATION. The **City** shall provide the public and all abutters with opportunity to learn about the **Project** and express concerns, using a public process that is appropriate for the scope of work and acceptable to the **MaineDOT** Project Manager. A public process certification (Letter 16) shall be part of the final PS&E package.
- 2G. ENVIRONMENTAL PROCESS. The **City** shall prepare and submit to **MaineDOT** all required environmental documents, including but not limited to Letter 11 and the National Environmental Policy Act (NEPA) checklist. **MaineDOT** will prepare and submit to the Federal Highway Administration all documentation required under NEPA.
- 2H. PERMITS. The **City** shall obtain all required approvals, permits and licenses for the **Project**. The **City** shall submit copies of all such documents and an environmental certification (Letter 12) to **MaineDOT** with the final PS&E package.
- 2I. UTILITIES. The **City** shall coordinate the **Project** with all utilities and any railroad that may be affected by the work. The **City** shall submit a utility certification (Letter 13) to **MaineDOT** with the final PS&E package, in accordance with federal regulation 23 CFR, Section 635.609, "Authorization." **MaineDOT's** Utility Accommodation Rules (2014) shall apply to all required utility relocations.
- 2J. RIGHT OF WAY. If permanent or temporary property rights will need to be acquired for the **Project**, **MaineDOT** will carry out the right-of-way process. **MaineDOT's** Chief Property Officer must approve any alternative procedure in writing. Additionally, if applicable:
1. The **City** shall dedicate to the **Project** any municipal property required for the **Project**, with a monumented boundary and engineering controls sufficient to locate and define such land.
- 2K. FORCE ACCOUNT. If the **City** intends to use municipal labor or materials for the **Project**, the **City** shall obtain **MaineDOT's** written authorization to use a "force account" process before proceeding. If so authorized, the **City** shall comply with federal regulation 23 CFR, sections 635.201 to 635.205: "Force account construction."

- 2L. SOLICITATION OF BIDS. The **City** shall use competitive bidding to hire a construction contractor unless **MaineDOT** approves a “force account” process. Upon **MaineDOT**’s written authorization, the **City** shall advertise for bids, as follows:
1. The **City** shall follow the procedures in **MaineDOT**’s Standard Specifications (November 2014 Edition), Section 102, “Bidding.”
  2. The **City** shall submit bid tabulations to **MaineDOT** for review and shall obtain **MaineDOT**’s written approval before awarding a contract.
- 2M. CONTRACT AWARD. Upon receiving **MaineDOT**’s written approval, the **City** shall award a contract to the lowest responsive and responsible bidder in accordance with **MaineDOT**’s Standard Specifications (November 2014 Edition), Section 103, “Award and Contracting.” The **City** shall administer the contract for the duration of the **Project**.
- 2N. CONSTRUCTION. The **City** shall hold a pre-construction meeting with **MaineDOT**, the contractor, utilities and any other parties involved in the construction work. The **City** shall provide the supervision, inspection and documentation necessary to ensure that the **Project** is completed to **MaineDOT**’s satisfaction in accordance with the final plans, specifications, special provisions and contract provisions, as follows:
1. The **City** shall coordinate materials testing to meet the Minimum Testing Requirements for the **Project**, in compliance with federal regulation 23 CFR, section 637, “Quality Assurance Procedures for Construction.”
  2. The **City** shall submit construction contract modifications to **MaineDOT** for review and comment before they are executed. **MaineDOT** reserves the right not to reimburse the **City** for work under contract modifications executed without **MaineDOT**’s prior review.
  3. Upon completion, the **City** shall certify in writing that the **Project** was constructed, quantities were measured and documented, and materials were tested in accordance with the final, approved plans, specifications and provisions of the contract.
- 2O. MAINE DOT OVERSIGHT. **MaineDOT** may inspect construction activities and documentation – and test materials used – to ensure compliance with the **Project** specifications and construction contract. **MaineDOT** may reject work or materials out of compliance and withhold reimbursement to the **City** for such work or materials.

### **ARTICLE 3 – FINANCIAL PROVISIONS**

---

- 3A. MAINE DOT SHARE. **MaineDOT**, using federal and state funding programmed by **BACTS**, will share in the cost of the **Project** at the rate of ninety percent (**90%**) of costs eligible for federal and state participation, up to a maximum contribution of five hundred ninety-two thousand forty-five dollars and twenty cents (**\$592,045.20.**)
- 3B. LOCAL SHARE. The **City** shall share in all federally eligible **Project** costs at the rate of ten percent (**10%**), or sixty-five thousand seven hundred eighty-two dollars and eighty cents (**\$65,782.80**). Furthermore, the **City** exclusively shall be responsible for expenditures:
1. Incurred before the date of Notice to Proceed, as set forth in Article 2A, “Authorization”;
  2. Deemed ineligible for federal financial participation; and
  3. Exceeding the upset limit of this Agreement, as set forth in Article 1B, “Funding.”

- 3C. MAINEDOT COSTS. Costs that **MaineDOT** incurs for work on the **Project** shall be paid for out of the **Project**. The **City** shall share in these costs as set forth in Article 3B, "Local Share." **MaineDOT** will reconcile these costs upon completion of the **Project** and deduct the **City's** share from the final invoice payment. **MaineDOT** will provide periodic reports of such costs incurred to date at the request of the **City**.
- 3D. REIMBURSEMENT. **MaineDOT** will reimburse the **City** for federally eligible costs incurred on the **Project** at the rate in Article 3A, "MaineDOT Share." The **City** shall bill **MaineDOT** no more than monthly but no less than quarterly, subject to these conditions:
1. The **City** shall submit Invoices on letterhead and reference WIN 20856.00.
  2. **MaineDOT** will make no payment unless the **City** has incurred a cost and submitted to **MaineDOT** the receipted invoice and proof of payment, including a breakdown of the charges incurred in sufficient detail to satisfy the **MaineDOT** Project Manager.
  3. Each invoice must include a progress report in accordance with Article 2C.
  4. Each invoice must show **MaineDOT's** and the **City's** shares of **Project** costs, including a running total of all costs incurred to date.
  5. The **City** must certify that amounts claimed are correct and not claimed previously.
  6. Payment of the final invoice shall be contingent upon a final inspection of the completed **Project** to determine the acceptability of the work.
- 3E. REPAYMENT. If the **City** withdraws from the **Project** without concurrence from **MaineDOT**, leading to termination of this Agreement for cause under Article 4, "Termination," the **City** shall refund all payments from **MaineDOT** toward the **Project** and reimburse **MaineDOT** for costs incurred for work on the **Project**. **MaineDOT** shall make available to **BACTS** any refunded federal and state money upon closeout of the **Project**.
- 3F. SET-OFF. **MaineDOT** may exercise all of its common law, equitable and statutory rights of set-off to recover payment to the **City** for work subsequently deemed to be ineligible for federal-aid funding. These rights will include, but will not be limited to, **MaineDOT's** option to withhold money owed to the **City** under this Agreement and any other agreement with **MaineDOT** or any other agency of the State of Maine, including any contract starting before the effective date of this Agreement.
- 3G. REMAINING FUNDS. Any federal and state funds remaining in the **Project** upon completion of the work and payment of the final invoice shall be made available to **BACTS**.

## **ARTICLE 4 – TERMINATION**

---

- 4A. FOR CAUSE. **MaineDOT** will have just cause to terminate this Agreement in the event of default by the **City**, as defined in Article 4B below. **MaineDOT** will afford the **City** a cure period of fourteen (14) calendar days, effective on the **City's** receipt of Notice of Default. If the **City** fails to address all defaults within this cure period, **MaineDOT** may terminate this Agreement for cause, with these conditions:

1. The **City** and all contracted parties shall stop work immediately – except for work required to protect public health and safety – and shall abide by the terms of Article 5 below regarding the treatment of records for the terminated **Project**.
2. If termination is the result of the **City**'s failure to correct any occurrence of default, **MaineDOT** shall recover from the **City** reimbursements made and **Project** costs incurred in accordance with Article 3E, "Repayment."
3. **MaineDOT** will make available to **BACTS** all federal and state funds remaining in the terminated **Project**, as well as all federal and state funds recovered from the **City**, in accordance with Article 3E, "Repayment."

4B. DEFAULT. **MaineDOT** shall send the **City** a Notice of Default if the **City**:

- Withdraws from the **Project** without written concurrence from **MaineDOT**; or
- Fails to provide matching funds as outlined in Article 3B, "Local Share"; or
- Makes inadequate progress within 18 months of execution of this Agreement; or
- Takes any action that renders the **Project** ineligible for federal-aid funding; or
- Uses **Project** funds for a purpose not authorized by this Agreement; or
- Misrepresents or falsifies of any claim for reimbursement; or
- Fails to meet standards of performance outlined in this Agreement.

4C. FOR CONVENIENCE. The **Parties** may terminate this Agreement for convenience by mutual consent for any reason not defined as "default," as follows:

1. In case of Termination for Convenience, **MaineDOT** will reimburse the **City** for federally eligible work performed until the effective termination date. The **City**'s share of **MaineDOT**'s costs for work on the **Project** shall be deducted from amounts due to the **City** in accordance with Article 3C, "MaineDOT Costs."
2. All **Project** records shall be handled in accordance with the terms of Article 5 below.
3. **MaineDOT** will make available to **BACTS** all federal and state funds remaining in the terminated **Project**, in accordance with Article 3G, "Remaining Funds."

## **ARTICLE 5 – RECORDS & AUDIT**

---

- 5A. **Project** records are printed or electronic plans, specifications, contracts, reports, notes, or other documents prepared by or for the **City**. The **City** shall retain all such records for at least **five (5) years** from the date of **MaineDOT**'s acceptance of the final invoice for the **Project**. If any litigation, claim, negotiation or audit has begun before the end of this five (5) year period, all such records shall be kept at least until all action and resolution of all issues arising from it are complete. After completion or termination of the **Project**, all such records shall be provided to **MaineDOT** within thirty (30) days of receipt of any request.
- 5B. The **City** and any consultant or contractor working on its behalf shall allow authorized representatives of the Federal Government and the State of Maine to inspect and audit **Project** records at reasonable times. Copies shall be furnished at no cost.
- 5C. Audits shall be performed in accordance with federal regulation 2 CFR, Section 200, Subpart F - "Audit Requirements."

## ARTICLE 6. GENERAL PROVISIONS

---

- 6A. GOVERNING LAW. This Agreement is made and shall be construed under the laws of the State of Maine. Since this Agreement covers a **Project** employing federal-aid funds, all activities under this document shall be performed in accordance with applicable federal regulations, including but not limited to 23 CFR, "Highways"; 49 CFR, "Transportation"; and 2 CFR, Section 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."
- 6B. INDEMNIFICATION. To the extent allowed by law, the **City** shall indemnify, defend and hold harmless **MaineDOT**, its officers, agents and employees from all claims, suits or liabilities arising from negligent or wrongful act, error or omission by the **City**, its officers, employees, agents, consultants or contractors. Nothing in this article shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or other privileges or immunities provided by law.
- 6C. CONFIDENTIALITY. The **City** shall protect the confidentiality of right-of-way negotiations, property appraisals, and engineering estimates of the cost to construct the **Project**, in accordance with the provisions of Title 23 of the Maine Revised Statutes Annotated (MRSA), Section 63, "Confidentiality of records ... ."
- 6D. INDEPENDENT CAPACITY. The **City**, its employees, agents, representatives, consultants and contractors *shall not* act as officers, employees or agents of **MaineDOT**.
- 6E. FLOW DOWN. Contracts between the **City** and all third parties shall contain or incorporate by reference applicable provisions of this Agreement.
- 6F. EQUAL EMPLOYMENT OPPORTUNITY. The **City** shall adhere to all EEO requirements in the administration of the **Project**, as follows:
1. The **City** shall not discriminate against any employee or applicant for employment *relating specifically to work under this Agreement* because of race, color, religious creed, sex, national origin, ancestry, age, sexual orientation or disability unless related to a bona fide occupational qualification. The **City** shall take affirmative action to ensure that all such applicants are employed and that all such employees are treated regardless of their race, color, religious creed, sex, national origin, ancestry, age or disability during any period of employment under this Agreement.
  2. In all solicitations or advertising for employees relating to work done under this Agreement, the **City** shall state that all qualified applicants shall receive consideration for employment regardless of race, color, religious creed, sex, national origin, ancestry, age, sexual orientation or disability.
  3. The **City** shall include the previous EEO provisions under this Article in any contract for services or work for the **Project** so that such provisions are binding upon each consultant and contractor – with the exception of any contract for the purchase of standard commercial supplies or raw materials. To the maximum extent feasible, the **City** and its consultants and contractors shall list all suitable employment openings with the Maine Job Service.

- 6G. BINDING EFFECT. The **Parties** shall be bound by the terms of this Agreement, which shall apply to its executors, their successors, administrators and legal representatives.
- 6H. ENTIRE AGREEMENT. This document represents the entire Agreement between the **Parties**. Neither **MaineDOT** nor the **City** shall be bound by any statement, correspondence, agreement or representation not expressly contained in this Agreement.

## **ARTICLE 7. DEBARMENT**

---

- 7A. The **City** certifies to the best of its knowledge and belief that it and its officers, agents and employees associated with the **Project** are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by the Federal Government. If the **City** cannot certify to this statement, it shall attach an explanation to this Agreement. For the term of this Agreement, the **City** shall notify **MaineDOT** promptly if it or any officer, agent or employee associated with the **Project** is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by the Federal Government.
- 7B. The **City** agrees that it shall not hire an outside entity that is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by the Federal Government.
- 7C. The **City** agrees that if it contracts with an outside entity, that entity and its principals shall certify that they:
1. Have not within a 3-year period preceding the date of such contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with the following: a.) obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; b.) violating federal or state antitrust statutes; and c.) committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
  2. Are not currently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph 1 of this section; and
  3. Have not within a 3-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

## **ARTICLE 8. CONFLICT OF INTEREST**

---

The **City** shall avoid contracting with an outside entity that has a financial or other interest in the **Project** or in its outcome, other than the performance of the contract. This prohibition applies to: a.) any agreement with, or other interest involving, third parties having an interest in the outcome of the **Project** that is the subject to the contract; b.) any agreement providing incentives or guarantees of future work on the **Project** or related matters; and c.) any interest in real property acquired for the **Project** unless such interest is disclosed to **MaineDOT** before the person or entity entered into the contract.

## ARTICLE 9. EXPIRATION

---

This Agreement shall expire upon satisfactory completion of the **Project** or **five (5) years** from the final day of the month in which this Agreement was executed, whichever occurs first, except as follows:

- Article 5, "Records & Audit," shall remain in place until all activity pursuant to this provision is completed.
- Article 6B, "Indemnification," shall survive the termination or expiration of this Agreement. It shall remain in place until specifically terminated by the **Parties** or negated by law.
- Article 6C, "Confidentiality," shall remain in effect until negated by law.

## ARTICLE 10. AGREEMENT APPROVAL

---

The undersigned municipal representative assures that the City Council of Bangor, Maine, has approved the **City's** entry into this Agreement, has appropriated or authorized use of required matching funds, and has authorized the representative to sign this Agreement.

IN WITNESS WHEREOF, the **Parties** have executed this Agreement effective on the date last signed below.

**City of Bangor**

**Maine Department of Transportation**

By: \_\_\_\_\_  
**Catherine M. Conlow, City Manager**

By: \_\_\_\_\_  
**William A. Pulver, P.E., Director,**  
Bureau of Project Development

Date: \_\_\_\_\_

Date: \_\_\_\_\_

*I certify that the foregoing signature is true and accurate. I further certify – pursuant to 10 M.R.S.A. §9407 and §9502 – that the signature, if electronic: (a) is intended to have the same force as my manual signature; (b) is unique to me; (c) is capable of verification; and (d) is under my control.*

ATTACHMENT 1

**Federal Funding Accountability and Transparency Act**

---

The **City of Bangor, Maine** and its contractors may be subject to the provisions of the Federal Funding Accountability and Transparency Act of 2006 as amended and any regulations, policies, procedures and guidance documents adopted pursuant thereto or in connection therewith.

If the Federal portion of the **Project** exceeds \$25,000, an authorized representative from the **City** shall sign this document under (B) below and return it with the **Project** Agreement. Additionally, the **City** shall provide the following information, *if applicable*:

- A) The total compensation and names of the top five officers if:
- More than 80% of the **City**'s annual gross revenues are from the Federal Government; and
  - Those revenues are greater than \$25 million annually; and
  - Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission (SEC).
- B) Legal name and DUNS<sup>®</sup> number on file with the Central Contractor Registration (CCR):

<u>City of Bangor, Maine</u>	<u>07-173-9692</u>
Sign and Print Legal CCR Name	DUNS <sup>®</sup> Number

Authorized Representative: \_\_\_\_\_  
**Catherine M. Conlow, City Manager**

**U.S. Department of Transportation (U.S. DOT)**  
Federal Highway Administration – Standard Title VI / Nondiscrimination Assurances

---

**DOT Order No. 1050.2A**

The **City of Bangor** (the "Recipient") **AGREES THAT**, as a condition of receiving Federal financial assistance from the U.S. Department of Transportation (U.S. DOT) through the Federal Highway Administration (FHWA), it is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory citations hereinafter are referred to as the "Acts" and "Regulations," respectively.

**General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from the U.S. DOT, including the FHWA.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Nondiscrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

**Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its federally assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

**ATTACHMENT 2**

*The City of Bangor, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.*

**3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or Agreement subject to the Acts and the Regulations.**

4. If applicable, the Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. If applicable, the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Recipient also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA. You must keep records, reports, and submit the material for review upon request to the FHWA, or their designees in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation. This ASSURANCE is binding on the Recipient, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in it programs. The person signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

DATED \_\_\_\_\_

By \_\_\_\_\_  
**Catherine M. Conlow, City Manager**  
**City of Bangor**

Encl.: Appendices A and E

**TITLE VI ASSURANCES: APPENDIX A**

---

During the performance of this contract, the *City*, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The *City* will comply with the Acts and the Regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement, as set forth in Appendix E to these Assurances.
2. **Nondiscrimination:** The *City*, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of consultants and contractors, including procurements of materials and leases of equipment. The *City* will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E to these Assurances, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the *City* for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential consultant or contractor will be notified by the *City* of the *City*'s obligations under this Agreement and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, as set forth in Appendix E to these Assurances.
4. **Information and Reports:** The *City* will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Maine Department of Transportation or the Federal Highway Administration, to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of the *City* is in the exclusive possession of another who fails or refuses to furnish the information, the *City* will so certify to the Maine Department of Transportation or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for noncompliance:** In the event of the *City*'s noncompliance with the Non-discrimination provisions of this Agreement, MaineDOT will impose such Agreement sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the *City* under the Agreement until the *City* complies; and/or
  - b. Cancelling, terminating, or suspending the Agreement, in whole or in part.

**Incorporation of Provisions:** The *City* will include the provisions of paragraphs one through five above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The *City* will take action with respect to any subcontract or procurement as the Maine Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the *City* becomes involved in, or is threatened with litigation by a consultant, contractor, or supplier because of such direction, the *City* may request the Maine Department of Transportation to enter into any litigation to protect the interests of the Maine Department of Transportation. In addition, the *City* may request the United States to enter into the litigation to protect the interests of the United States.

**TITLE VI ASSURANCES: APPENDIX E**

---

During the performance of this contract, the **City of Bangor**, for itself, its assignees, and successors in interest (hereinafter referred to as the “**City**”) agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. §4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. §324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. §794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. §6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. §471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. §47123) (prohibits discrimination on the basis of race, color, national origin and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

Date: April 25, 2016

Item/Subject: **ORDER, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – Maine Avenue Resurfacing, WIN 20857.00**

Responsible Department: **Engineering**

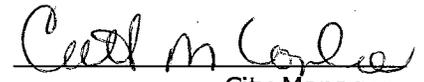
**Commentary:**

This order would authorize the City Manager to execute a Local Project Agreement with the Maine Department of Transportation for resurfacing of 0.4 mile of Maine Avenue from Venture Way to Hammond Street.

The Maine Department of Transportation has approved funds in an amount not to exceed \$577,410.00. The total State/Federal share of 90% is equal to \$519,669.00, and the Municipality share of 10% is equal to \$57,741.00. As a condition of this funding, the City is required to enter into a Local Project Agreement with the Maine Department of Transportation. This item was reviewed and recommended for approval at the Infrastructure Committee meeting on April 12, 2016.

John M. Theriault, City Engineer  
Department Head

**Manager's Comments:**

  
City Manager

**Associated Information:** Council Order, Agreement

**Budget Approval:**

  
Finance Director

**Legal Approval:**

  
City Solicitor

**Introduced for**  
 Passage  
 First Reading  
 Referral

Assigned to Councilor Graham



## CITY OF BANGOR

---

**(TITLE.) Order, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – Maine Avenue Resurfacing, WIN 20857.00**

(TITLE.) ORDER, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – WIN #20857.00, Maine Avenue Resurfacing from Venture Way to Hammond Street.

ORDERED,

THAT: the City Manager is hereby authorized and directed to execute an agreement with the Maine Department of Transportation for the following:

**An Agreement with the Maine Department of Transportation – Maine Avenue Resurfacing, WIN #20857.00**

Copy of the agreement is attached.



<i>MaineDOT use only</i>	
AMS ID:	_____
CSN:	_____
TEDOCS #:	_____
PROGRAM:	Multimodal (OUC 57000)

**MAINE DEPARTMENT OF TRANSPORTATION**  
**Locally Administered Project Agreement**  
 With the  
**City of Bangor**  
 Regarding  
**Resurfacing of Maine Avenue: Venture Way to Hammond Street**

Total Amount: \$577,410	MaineDOT WIN: 20857.00
Federal Share: \$461,928	Federal Project #: _____
State Share: \$57,741	Federal Authorization Date: _____
Bangor Share: \$57,741	Bangor's Vendor ID: VC1000007010
Effective Date: _____	Bangor's DUNS® Number: 07-173-9692
Expiration Date: _____	CFDA #20.205: Highway Planning & Construction

This subaward agreement for a federal-aid project is made between the Maine Department of Transportation, an agency of the State of Maine with headquarters at 24 Child Street in Augusta, Maine ("MaineDOT"), and the City of Bangor, a body corporate and politic with its principal offices at 73 Harlow Street in Bangor, Maine ("the City.")

- This Agreement contains the following attachments:
1. Federal Funding Accountability and Transparency Act (municipal signature required);
  2. Federal Title VI Assurances (municipal signature required).

WHEREAS, the scope of work set forth in Article 1A below was programmed for the **MaineDOT** 2016-2018 Work Plan by the Bangor Area Comprehensive Transportation System, the designated metropolitan planning organization for the Bangor Urbanized Area, with its administrative offices at 12 Acme Road, Suite 102, in Brewer, Maine ("**BACTS**"); and

WHEREAS, **MaineDOT** accepted the **City's** request to undertake the work as a "locally administered project," based on the **City's** record of delivering such projects successfully.

NOW, in consideration of the previous statements, **MaineDOT** and the **City** ("the **Parties**") agree to the following terms:

**ARTICLE 1 – PROJECT OVERVIEW**

- 1A. SCOPE. **BACTS** programmed a resurfacing of 0.4 mile of Maine Avenue, from Venture Way to Hammond Street ("the **Project**." Any change to this scope of work shall require written approval from **BACTS** and **MaineDOT** to qualify for federal and state funding.
- 1B. FUNDING. **BACTS** programmed a total of five hundred seventy-seven thousand four hundred ten dollars (**\$577,410**) for the **Project** to be shared as set forth in Article 3, "Financial Provisions." **Project** costs exceeding this amount shall require written approval from **BACTS** and **MaineDOT** to qualify for state and federal funding.

1C. ROLE OF CITY. The **City** shall assign a full-time employee with certification from **MaineDOT** to manage the **Project** and carry out the **City's** responsibilities. This Local Project Administrator shall follow the guidance in the latest edition of **MaineDOT's** Local Project Administration Manual. If the certified administrator leaves the **City** or ceases to oversee the **Project**, the **City** shall stop work and notify the **MaineDOT** Project Manager. **MaineDOT** will evaluate the situation and determine a course of action.

- The **City** has assigned the following person to serve as Local Project Administrator:  
Ted Trembley, Project Engineer  
City of Bangor, Engineering Department  
Phone: (207) 992-4251  
Email: [ted.trembley@bangormaine.gov](mailto:ted.trembley@bangormaine.gov)

1A. ROLE OF MAINEDOT. **MaineDOT** will assign a Project Manager to the **Project** to carry out the State of Maine's responsibilities. This person or a designee will have the authority to request design changes to meet applicable laws and design standards; accept or reject invoices; review construction activities to ensure compliance with contract documents; and take all other action necessary to ensure the proper performance of this Agreement.

- MaineDOT** has assigned the following person to serve as Project Manager:  
Catherine Rand, Project Manager I  
Bureau of Project Development, Multimodal Program  
Phone: (207) 634-3451 / (207) 557-1662  
Email: [Catherine.Rand@maine.gov](mailto:Catherine.Rand@maine.gov)

## **ARTICLE 2 – PROJECT DEVELOPMENT**

---

2A. AUTHORIZATION. The **City** shall receive Notice to Proceed from **MaineDOT** before starting reimbursable work or executing any contract for services for the **Project**. This notice shall be issued after **MaineDOT** receives authorization for federal financial participation in the **Project** and executes this Agreement.

2B. KICKOFF. The **City** shall hold a project kickoff with **MaineDOT** to go over the scope of work, estimated cost, schedule, and legal requirements before any work begins.

2C. PROGRESS REPORTS. The **City** shall provide **MaineDOT** with regular progress reports for the **Project** at intervals established by **MaineDOT's** Project Manager.

2D. CONSULTANT SERVICES. The **City** may contract for consultant services to assist with delivery of the **Project**. In doing so, the **City** shall:

1. Use a qualifications-based process, in accordance with federal regulation 23 CFR, Section 172, "Administration of engineering and design-related service contracts."
2. Obtain the **MaineDOT** Project Manager's approval before awarding a contract.
3. Incorporate the "Consultant General Conditions for Local Public Agencies" into all contracts for services.
4. Obtain **MaineDOT's** written approval before modifying a contract. **MaineDOT shall not reimburse the City for work performed under a modification executed without prior approval or work performed before the effective date of a modification.**

- 2E. DESIGN WORK. The **City** shall develop all design plans, specifications, estimates and contract documents for the **Project** in accordance with applicable sections of **MaineDOT's** Engineering Instructions, Highway Design Guide, and Standard Specifications, unless **MaineDOT** approves the use of alternative standards in writing, as follows:
1. The **City** shall submit a preliminary design report, if applicable, and the final plans, specifications and estimate (PS&E) package to **MaineDOT** for review and comment.
  2. The **City** shall address, to **MaineDOT's** satisfaction, changes requested or concerns expressed before **MaineDOT** will authorize the **City** to advertise for construction bids. Advertising for bids or otherwise proceeding to construction without **MaineDOT's** written authorization shall render the **Project** ineligible for federal funding.
  3. **MaineDOT's** acceptance of the PS&E package shall not relieve the Engineer of Record, whether a **City** employee or consultant, of responsibility for the quality of the engineering documents for the **Project**.
- 2F. PUBLIC PARTICIPATION. The **City** shall provide the public and all abutters with opportunity to learn about the **Project** and express concerns, using a public process that is appropriate for the scope of work and acceptable to the **MaineDOT** Project Manager. A public process certification (Letter 16) shall be part of the final PS&E package.
- 2G. ENVIRONMENTAL PROCESS. The **City** shall prepare and submit to **MaineDOT** all required environmental documents, including but not limited to Letter 11 and the National Environmental Policy Act (NEPA) checklist. **MaineDOT** will prepare and submit to the Federal Highway Administration all documentation required under NEPA.
- 2H. PERMITS. The **City** shall obtain all approvals, permits and licenses needed for the **Project**. The **City** shall submit copies of all such documents and an environmental certification (Letter 12) to **MaineDOT** with the final PS&E package.
- 2I. UTILITIES. The **City** shall coordinate the **Project** with all utilities and any railroad that may be affected by the work. The **City** shall submit a utility certification (Letter 13) to **MaineDOT** with the final PS&E package, in accordance with federal regulation 23 CFR, Section 635.609, "Authorization." **MaineDOT's** Utility Accommodation Rules (2014) shall apply to all required utility relocations.
- 2J. RIGHT OF WAY. If permanent or temporary property rights will need to be acquired for the **Project**, **MaineDOT** will carry out the right-of-way process. **MaineDOT's** Chief Property Officer must approve any alternative procedure in writing. Additionally, the **City** shall dedicate to the **Project** any municipal property required for the **Project**.
- 2K. FORCE ACCOUNT. If the **City** intends to use municipal labor or materials for the **Project**, the **City** shall obtain **MaineDOT's** written authorization to use a "force account" process before proceeding. If so authorized, the **City** shall comply with federal regulation 23 CFR, sections 635.201 to 635.205: "Force account construction."
- 2L. SOLICITATION OF BIDS. The **City** shall use competitive bidding to hire a construction contractor unless **MaineDOT** approves a "force account" process. Upon **MaineDOT's** written authorization, the **City** shall advertise for bids, as follows:

1. The **City** shall follow the procedures in MaineDOT's Standard Specifications (November 2014 Edition), Section 102, "Bidding."
  2. The **City** shall submit bid tabulations to **MaineDOT** for review and shall obtain MaineDOT's written approval before awarding a contract.
- 2M. CONTRACT AWARD. Upon receiving **MaineDOT**'s written approval, the **City** shall award a contract to the lowest responsive and responsible bidder in accordance with MaineDOT's Standard Specifications (November 2014 Edition), Section 103, "Award and Contracting." The **City** shall administer the contract for the duration of the **Project**.
- 2N. CONSTRUCTION. The **City** shall hold a pre-construction meeting with **MaineDOT**, the contractor, utilities and any other parties involved in the construction work. The **City** shall provide the supervision, inspection and documentation necessary to ensure that the Project is completed to MaineDOT's satisfaction in accordance with the final plans, specifications, special provisions and contract provisions, as follows:
1. The **City** shall coordinate materials testing to meet the Minimum Testing Requirements for the **Project**, in compliance with federal regulation 23 CFR, section 637, "Quality Assurance Procedures for Construction."
  2. The **City** shall submit construction contract modifications to **MaineDOT** for review and comment before they are executed. *MaineDOT reserves the right not to reimburse the **City** for work under contract modifications executed without **MaineDOT**'s prior review.*
  3. Upon completion, the **City** shall certify in writing that the **Project** was constructed, quantities were measured and documented, and materials were tested in accordance with the final, approved plans, specifications and provisions of the contract.
- 2O. MAINE DOT OVERSIGHT. **MaineDOT** may inspect construction activities and documentation – and test materials used – to ensure compliance with the **Project** specifications and construction contract. **MaineDOT** may reject work or materials out of compliance and withhold reimbursement to the **City** for such work or materials.

### **ARTICLE 3 – FINANCIAL PROVISIONS**

---

- 3A. MAINE DOT SHARE. **MaineDOT**, using federal and state funding programmed by **BACTS**, will share in the cost of the **Project** at the rate of ninety percent (**90%**), up to a maximum contribution of five hundred nineteen thousand six hundred sixty-nine dollars (**\$519,669**.)
- 3B. LOCAL SHARE. The **City**, with funding other than from the U.S. Department of Transportation, shall share in all **Project** costs eligible for federal participation at the rate of ten percent (**10%**), or an estimated fifty thousand seven hundred forty-one dollars (**\$57,741**). Furthermore, the **City** exclusively shall be responsible for expenditures:
1. Incurred before the date of Notice to Proceed, as set forth in Article 2A, "Authorization";
  2. Deemed ineligible for federal financial participation; and
  3. Exceeding the upset limit of this Agreement, as set forth in Article 1B, "Funding."

- 3C. MAINEDOT COSTS. Costs that **MaineDOT** incurs for work on the **Project** shall be paid for out of the **Project**. The **City** shall share in these costs as set forth in Article 3B, "Local Share." **MaineDOT** will reconcile these costs upon completion of the **Project** and deduct the **City's** share from the final invoice payment. **MaineDOT** will provide periodic updates of such costs at the **City's** request.
- 3D. REIMBURSEMENT. **MaineDOT** will reimburse the **City** for federally eligible costs incurred on the **Project** at the rate in Article 3A, "MaineDOT Share." The **City** shall bill **MaineDOT** no more than monthly but no less than quarterly, subject to these conditions:
1. The **City** shall submit Invoices on letterhead and reference WIN 20857.00.
  2. **MaineDOT** will make no payment unless the **City** has incurred a cost and submitted to **MaineDOT** the receipted invoice and proof of payment, including a breakdown of the charges incurred in sufficient detail to satisfy the **MaineDOT** Project Manager.
  3. Each invoice must include a progress report in accordance with Article 2C.
  4. Each invoice must show **MaineDOT's** and the **City's** shares of **Project** costs, including a running total of all costs incurred to date.
  5. The **City** must certify that amounts claimed are correct and not claimed previously.
  6. Payment of the final invoice shall be contingent upon a final inspection of the completed **Project** to determine the acceptability of the work.
- 3E. REPAYMENT. If the **City** withdraws from the **Project** without concurrence from **MaineDOT**, leading to termination of this Agreement for cause under Article 4, "Termination," the **City** shall refund all payments from **MaineDOT** toward the **Project** and reimburse **MaineDOT** for costs incurred for work on the **Project**. **MaineDOT** shall make available to **BACTS** any refunded federal and state money upon closeout of the **Project**.
- 3F. SET-OFF. **MaineDOT** may exercise all of its common law, equitable and statutory rights of set-off to recover payment to the **City** for work subsequently deemed to be ineligible for federal-aid funding. These rights will include, but will not be limited to, **MaineDOT's** option to withhold money owed to the **City** under this Agreement and any other agreement with **MaineDOT** or any other agency of the State of Maine, including any contract starting before the effective date of this Agreement.
- 3G. REMAINING FUNDS. Any federal and state funds remaining in the **Project** upon payment of the final invoice and reconciliation of the **Project** shall be made available to **BACTS**.

## **ARTICLE 4 – TERMINATION**

---

- 4A. FOR CAUSE. **MaineDOT** will have just cause to terminate this Agreement in the event of default by the **City**, as defined in Article 4B below. **MaineDOT** will afford the **City** a cure period of fourteen (14) calendar days, effective on the **City's** receipt of Notice of Default. If the **City** fails to address all defaults within this cure period, **MaineDOT** may terminate this Agreement for cause, with these conditions:
1. The **City** and all contracted parties shall stop work immediately – except for work required to protect public health and safety – and shall abide by the terms of Article 5 below regarding the treatment of records for the terminated **Project**.

2. If termination is the result of the **City's** failure to correct any occurrence of default, **MaineDOT** shall recover from the **City** reimbursements made and **Project** costs incurred in accordance with Article 3E, "Repayment."
3. **MaineDOT** will make available to **BACTS** all federal and state funds remaining in the terminated **Project**, as well as all federal and state funds recovered from the **City**, in accordance with Article 3E, "Repayment."

4B. DEFAULT. **MaineDOT** shall send the **City** a Notice of Default if the **City**:

- Withdraws from the **Project** without written concurrence from **MaineDOT**; and/or
- Fails to provide matching funds as outlined in Article 3B, "Local Share"; and/or
- Makes inadequate progress within 18 months of execution of this Agreement; and/or
- Takes any action that renders the **Project** ineligible for federal-aid funding; and/or
- Uses **Project** funds for a purpose not authorized by this Agreement; and/or
- Misrepresents or falsifies of any claim for reimbursement; and/or
- Fails to meet standards of performance outlined in this Agreement.

4C. FOR CONVENIENCE. The **Parties** may terminate this Agreement for convenience by mutual consent for any reason not defined as "default," as follows:

1. In case of Termination for Convenience, **MaineDOT** will reimburse the **City** for federally eligible work performed until the effective termination date. The **City's** share of **MaineDOT's** costs for work on the **Project** shall be deducted from amounts due to the **City** in accordance with Article 3C, "MaineDOT Costs."
2. All **Project** records shall be handled in accordance with the terms of Article 5 below.
3. **MaineDOT** will make available to **BACTS** all federal and state funds remaining in the terminated **Project**, in accordance with Article 3G, "Remaining Funds."

## **ARTICLE 5 – RECORDS & AUDIT**

---

- 5A. **Project** records are printed or electronic plans, specifications, contracts, reports, notes, or other documents prepared by or for the **City**. The **City** shall retain all such records for at least **five (5) years** from the date of **MaineDOT's** acceptance of the final invoice for the **Project**. If any litigation, claim, negotiation or audit has begun before the end of this five (5) year period, all such records shall be kept at least until all action and resolution of all issues arising from it are complete. After completion or termination of the **Project**, all such records shall be provided to **MaineDOT** within thirty (30) days of receipt of any request.
- 5B. The **City** and any consultant or contractor working on its behalf shall allow authorized representatives of the Federal Government and the State of Maine to inspect and audit **Project** records at reasonable times. Copies shall be furnished at no cost.
- 5C. Audits shall be performed in accordance with federal regulation 2 CFR, Section 200, Subpart F - "Audit Requirements."

## **ARTICLE 6. GENERAL PROVISIONS**

---

- 6A. GOVERNING LAW. This Agreement is made and shall be construed under the laws of the State of Maine. Since this Agreement covers a **Project** employing federal-aid funds, all activities under this document shall be performed in accordance with applicable federal regulations, including but not limited to 23 CFR, "Highways"; 49 CFR, "Transportation"; and 2 CFR, Section 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."
- 6B. INDEMNIFICATION. To the extent allowed by law, the **City** shall indemnify, defend and hold harmless **MaineDOT**, its officers, agents and employees from all claims, suits or liabilities arising from negligent or wrongful act, error or omission by the **City**, its officers, employees, agents, consultants or contractors. Nothing in this article shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or other privileges or immunities provided by law.
- 6C. CONFIDENTIALITY. The **City** shall protect the confidentiality of engineering estimates of the cost to construct the **Project**, in accordance with the provisions of Title 23 of the Maine Revised Statutes Annotated (MRSA), Section 63, "Confidentiality of records ... ."
- 6D. INDEPENDENT CAPACITY. The **City**, its employees, agents, representatives, consultants and contractors *shall not* act as officers, employees or agents of **MaineDOT**.
- 6E. FLOW DOWN. Contracts between the **City** and all third parties shall contain or incorporate by reference applicable provisions of this Agreement.
- 6F. EQUAL EMPLOYMENT OPPORTUNITY. The **City** shall adhere to all EEO requirements in the administration of the **Project**, as follows:
1. The **City** shall not discriminate against any employee or applicant for employment *relating specifically to work under this Agreement* because of race, color, religious creed, sex, national origin, ancestry, age, sexual orientation or disability unless related to a bona fide occupational qualification. The **City** shall take affirmative action to ensure that all such applicants are employed and that all such employees are treated regardless of their race, color, religious creed, sex, national origin, ancestry, age or disability during any period of employment under this Agreement.
  2. In all solicitations or advertising for employees relating to work done under this Agreement, the **City** shall state that all qualified applicants shall receive consideration for employment regardless of race, color, religious creed, sex, national origin, ancestry, age, sexual orientation or disability.
  3. The **City** shall include the previous EEO provisions under this Article in any contract for services or work for the **Project** so that such provisions are binding upon each consultant and contractor – with the exception of any contract for the purchase of standard commercial supplies or raw materials. To the maximum extent feasible, the **City** and its consultants and contractors shall list all suitable employment openings with the Maine Job Service.

- 6G. BINDING EFFECT. The **Parties** shall be bound by the terms of this Agreement, which shall apply to its executors, their successors, administrators and legal representatives.
- 6H. ENTIRE AGREEMENT. This document represents the entire Agreement between the **Parties**. Neither **MaineDOT** nor the **City** shall be bound by any statement, correspondence, agreement or representation not expressly contained in this Agreement.

## **ARTICLE 7. DEBARMENT**

---

- 7A. The **City** certifies to the best of its knowledge and belief that it and its officers, agents and employees associated with the **Project** are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by the Federal Government. If the **City** cannot certify to this statement, it shall attach an explanation to this Agreement. For the term of this Agreement, the **City** shall notify **MaineDOT** promptly if it or any officer, agent or employee associated with the **Project** is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by the Federal Government.
- 7B. The **City** agrees that it shall not hire an outside entity that is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by the Federal Government.
- 7C. The **City** agrees that if it contracts with an outside entity, that entity and its principals shall certify that they:
1. Have not within a 3-year period preceding the date of such contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with the following: a.) obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; b.) violating federal or state antitrust statutes; and c.) committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
  2. Are not currently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph 1 of this section; and
  3. Have not within a 3-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

## **ARTICLE 8. CONFLICT OF INTEREST**

---

The **City** shall avoid contracting with an outside entity that has a financial or other interest in the **Project** or in its outcome, other than the performance of the contract. This prohibition applies to: a.) any agreement with, or other interest involving, third parties having an interest in the outcome of the **Project** that is the subject to the contract; b.) any agreement providing incentives or guarantees of future work on the **Project** or related matters; and c.) any interest in real property acquired for the **Project** unless such interest is disclosed to **MaineDOT** before the person or entity entered into the contract.

## ARTICLE 9. EXPIRATION

---

This Agreement shall expire upon satisfactory completion of the **Project** or **five (5) years** from the final day of the month in which this Agreement was executed, whichever occurs first, except as follows:

- Article 5, "Records & Audit," shall remain in place until all activity pursuant to this provision is completed.
- Article 6B, "Indemnification," shall survive the termination or expiration of this Agreement. It shall remain in place until specifically terminated by the **Parties** or negated by law.
- Article 6C, "Confidentiality," shall remain in effect until negated by law.

## ARTICLE 10. AGREEMENT APPROVAL

---

The undersigned municipal representative assures that the City Council of Bangor, Maine, has approved the **City's** entry into this Agreement, has appropriated or authorized use of required matching funds, and has authorized the representative to sign this Agreement.

IN WITNESS WHEREOF, the **Parties** have executed this Agreement effective on the date last signed below.

**City of Bangor**

**Maine Department of Transportation**

By: \_\_\_\_\_  
**Catherine M. Conlow, City Manager**

By: \_\_\_\_\_  
**William A. Pulver, P.E., Director,**  
Bureau of Project Development

Date: \_\_\_\_\_

Date: \_\_\_\_\_

*I certify that the foregoing signature is true and accurate. I further certify – pursuant to 10 M.R.S.A. §9407 and §9502 – that the signature, if electronic: (a) is intended to have the same force as my manual signature; (b) is unique to me; (c) is capable of verification; and (d) is under my control.*

## **Federal Funding Accountability and Transparency Act**

---

The **City of Bangor, Maine** and its contractors may be subject to the provisions of the Federal Funding Accountability and Transparency Act of 2006 as amended and any regulations, policies, procedures and guidance documents adopted pursuant thereto or in connection therewith.

If the Federal portion of the **Project** exceeds \$25,000, an authorized representative from the **City** shall sign this document under (B) below and return it with the **Project** Agreement. Additionally, the **City** shall provide the following information, *if applicable*:

- A) The total compensation and names of the top five officers if:
- More than 80% of the **City**'s annual gross revenues are from the Federal Government; and
  - Those revenues are greater than \$25 million annually; and
  - Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission (SEC).
- B) Legal name and DUNS<sup>®</sup> number on file with the Central Contractor Registration (CCR):

<u>City of Bangor, Maine</u>	<u>07-173-9692</u>
Sign and Print Legal CCR Name	DUNS <sup>®</sup> Number

Authorized Representative: \_\_\_\_\_  
**Catherine M. Conlow, City Manager**

**U.S. Department of Transportation (U.S. DOT)**  
Federal Highway Administration – Standard Title VI / Nondiscrimination Assurances

---

**DOT Order No. 1050.2A**

The **City of Bangor** (the "Recipient") **AGREES THAT**, as a condition of receiving Federal financial assistance from the U.S. Department of Transportation (U.S. DOT) through the Federal Highway Administration (FHWA), it is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory citations hereinafter are referred to as the "Acts" and "Regulations," respectively.

**General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from the U.S. DOT, including the FHWA.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Nondiscrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

**Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its federally assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*The City of Bangor, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.*

- 3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or Agreement subject to the Acts and the Regulations.**
4. If applicable, the Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. If applicable, the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Recipient also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA. You must keep records, reports, and submit the material for review upon request to the FHWA, or their designees in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation. This ASSURANCE is binding on the Recipient, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in it programs. The person signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

DATED \_\_\_\_\_

By \_\_\_\_\_  
**Catherine M. Conlow, City Manager**  
**City of Bangor**

Encl.: Appendices A and E

**TITLE VI ASSURANCES: APPENDIX A**

---

During the performance of this contract, the *City*, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The *City* will comply with the Acts and the Regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement, as set forth in Appendix E to these Assurances.
2. **Nondiscrimination:** The *City*, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of consultants and contractors, including procurements of materials and leases of equipment. The *City* will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E to these Assurances, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the *City* for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential consultant or contractor will be notified by the *City* of the *City's* obligations under this Agreement and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, as set forth in Appendix E to these Assurances.
4. **Information and Reports:** The *City* will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Maine Department of Transportation or the Federal Highway Administration, to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of the *City* is in the exclusive possession of another who fails or refuses to furnish the information, the *City* will so certify to the Maine Department of Transportation or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for noncompliance:** In the event of the *City's* noncompliance with the Non-discrimination provisions of this Agreement, MaineDOT will impose such Agreement sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the *City* under the Agreement until the *City* complies; and/or
  - b. Cancelling, terminating, or suspending the Agreement, in whole or in part.

**Incorporation of Provisions:** The *City* will include the provisions of paragraphs one through five above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The *City* will take action with respect to any subcontract or procurement as the Maine Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the *City* becomes involved in, or is threatened with litigation by a consultant, contractor, or supplier because of such direction, the *City* may request the Maine Department of Transportation to enter into any litigation to protect the interests of the Maine Department of Transportation. In addition, the *City* may request the United States to enter into the litigation to protect the interests of the United States.

**TITLE VI ASSURANCES: APPENDIX E**

---

During the performance of this contract, the **City of Bangor**, for itself, its assignees, and successors in interest (hereinafter referred to as the “**City**”) agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. §4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. §324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. §794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. §6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. §471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. §47123) (prohibits discrimination on the basis of race, color, national origin and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

Date: April 25, 2016

**Item/Subject: ORDER, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – Penobscot River Walk Improvements, WIN 21767.00**

**Responsible Department: Engineering**

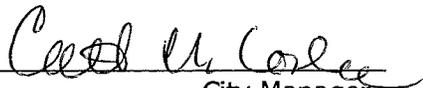
**Commentary:**

This order would authorize the City Manager to execute a Local Project Agreement with the Maine Department of Transportation for design, right-of-way, construction, and construction engineering for a reconstruction of 750 feet of waterfront sidewalk behind the Sea Dog restaurant, and construction of a new sidewalk for 180 feet along Front Street.

The Maine Department of Transportation has approved funds in an amount not to exceed \$261,630.00. The total State/Federal share of 80% is equal to \$209,304.00, and the Municipality share of 20% is equal to \$52,326.00. As a condition of this funding, the City is required to enter into a Local Project Agreement with the Maine Department of Transportation. This item was reviewed and recommended for approval by the Infrastructure Committee at its meeting of April 12, 2016.

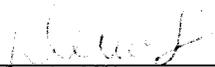
John M. Theriault, City Engineer  
Department Head

**Manager's Comments:**

  
City Manager

**Associated Information:** Council Order, Agreement

**Budget Approval:**

  
Finance Director

**Legal Approval:**

  
City Solicitor

**Introduced for**  
 Passage  
 First Reading  
 Referral

Assigned to Councilor Nichols



## CITY OF BANGOR

---

**(TITLE.) Order, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – Penobscot River Walk Improvements, WIN 21767.00**

(TITLE.) ORDER, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – WIN #21767.00, Penobscot River Walk Improvements

ORDERED,

THAT: the City Manager is hereby authorized and directed to execute an agreement with the Maine Department of Transportation for the following:

An Agreement with the Maine Department of Transportation – Penobscot River Walk Improvements, WIN #21767.00

Copy of the agreement is attached.



<i>MaineDOT use only</i>	
AMS ID:	_____
CSN:	_____
TEDOCS #:	_____
PROGRAM:	<u>Multimodal (OUC 57000)</u>

**MAINE DEPARTMENT OF TRANSPORTATION**  
**Locally Administered Project Agreement**  
 With the  
**City of Bangor**  
 Regarding

**Improvements to the River Walk along the Penobscot River: WIN 21767.00**

Agreement Amount: <u>\$261,630</u>	Federal Project #: _____
Federal Share: <u>\$209,304 (80%)</u>	Federal Authorization Date: _____
Municipal Share: <u>\$52,326 (20%)</u>	Bangor's Vendor ID: <u>VC1000007010</u>
Effective Date: _____	Sub-recipient's DUNS® Number: <u>07-173-9692</u>
Expiration Date: _____	CFDA # <u>20.205: Highway Planning &amp; Construction</u>

This subaward agreement for a federal-aid project is made between the Maine Department of Transportation, an agency of the State of Maine with headquarters at 24 Child Street in Augusta, Maine ("**MaineDOT**"), and the City of Bangor, a body corporate and politic with its primary offices at 73 Harlow Street in Bangor, Maine ("the **City**.")

This Agreement contains the following attachments:

1. Federal Funding Accountability and Transparency Act (municipal signature required);
2. Federal Title VI Assurances (municipal signature required).

WHEREAS, **MaineDOT** programmed the work described in Article 1A below for inclusion in its 2016-2018 Work Plan, using congressionally designated funding for Bangor/Brewer; and

WHEREAS, the **City** shall deliver the work in Article 1A below as a locally administered project, subject to **MaineDOT** oversight to ensure that all federal requirements are met.

NOW, in consideration of the previous statements, **MaineDOT** and the **City** ("the **Parties**") agree to the following terms:

**ARTICLE 1. PROJECT OVERVIEW**

1A. SCOPE OF WORK. The work eligible for federal funding will consist of design, right-of-way, construction, and construction engineering for a reconstruction of 750 feet of waterfront sidewalk behind the Sea Dog restaurant, and construction of a new sidewalk for 180 feet along Front Street ("the **Project**.") Any substantial change to this scope of work shall require **MaineDOT**'s written approval to be eligible for financial assistance from **MaineDOT**.

1B. FUNDING. **MaineDOT** programmed two hundred sixty-one thousand six hundred thirty dollars (**\$261,630**) for the **Project** to be shared at the rates set forth in Article 3, "Financial Provisions." **Project** costs eligible for federal financial assistance shall not exceed this amount without **MaineDOT**'s written approval.

1C. ROLE OF CITY. The **City** shall assign a full-time employee with certification from **MaineDOT** to manage the **Project** and carry out the **City's** responsibilities. This Local Project Administrator shall follow the guidance in the latest edition of **MaineDOT's** Local Project Administration Manual. If the certified administrator leaves the **City** or ceases to oversee the **Project**, the **City** shall stop work and notify the **MaineDOT** Project Manager. **MaineDOT** will evaluate the situation and determine a course of action.

- The **City** has assigned the following person to serve as Local Project Administrator:  
Ted Trembley, Design Engineer  
City of Bangor, Engineering Department  
Phone: (207) 992-4251  
Email: [ted.trembley@bangormaine.gov](mailto:ted.trembley@bangormaine.gov)

1D. ROLE OF MAINEDOT. **MaineDOT** will assign a Project Manager to the **Project** to carry out the State of Maine's responsibilities. This person or a designee will have the authority to request design changes to meet applicable laws and design standards; accept or reject invoices; review construction activities to ensure compliance with contract documents; and take all other action necessary to ensure the proper performance of this Agreement.

- MaineDOT** has assigned the following person to serve as Project Manager:  
Catherine Rand, Project Manager I  
Bureau of Project Development, Multimodal Program  
Phone: (207) 634-3451 / (207) 557-1662  
Email: [Catherine.Rand@maine.gov](mailto:Catherine.Rand@maine.gov)

## **ARTICLE 2. PROJECT DEVELOPMENT**

---

2A. AUTHORIZATION. The **City** shall receive Notice to Proceed from **MaineDOT** before starting reimbursable work or executing any contract for services for the **Project**. This notice shall be issued after **MaineDOT** receives authorization for federal financial participation in the **Project** and executes this Agreement.

2B. KICKOFF. The **City** shall hold a project kickoff with **MaineDOT** to go over the scope of work, estimated cost, schedule, and legal requirements before any work begins.

2C. PROGRESS REPORTS. The **City** shall provide **MaineDOT** with regular progress reports for the **Project** at intervals established by **MaineDOT's** Project Manager.

2D. CONSULTANT SERVICES. The **City** may contract for consultant services to assist with delivery of the **Project**. In doing so, the **City** shall:

1. Use a qualifications-based process, in accordance with federal regulation 23 CFR, Section 172, "Administration of engineering and design-related service contracts."
2. Obtain the **MaineDOT** Project Manager's approval before awarding a contract.
3. Incorporate the "Consultant General Conditions for Local Public Agencies" into all contracts for services.
4. Obtain **MaineDOT's** written approval before modifying a contract. **MaineDOT shall not reimburse the City for work performed under a modification executed without prior approval or work performed before the effective date of a modification.**

- 2E. DESIGN WORK. The **City** shall develop all design plans, specifications, estimates and contract documents for the **Project** in accordance with applicable sections of **MaineDOT's** Engineering Instructions, Highway Design Guide, and Standard Specifications, unless **MaineDOT** approves the use of alternative standards in writing, as follows:
1. The **City** shall submit a preliminary design report, if applicable, and the final plans, specifications and estimate (PS&E) package to **MaineDOT** for review and comment.
  2. The **City** shall address, to **MaineDOT's** satisfaction, changes requested or concerns expressed before **MaineDOT** will authorize the **City** to advertise for construction bids. Advertising for bids or otherwise proceeding to construction without **MaineDOT's** written authorization shall render the **Project** ineligible for federal funding.
  3. **MaineDOT's** acceptance of the PS&E package shall not relieve the Engineer of Record, whether a **City** employee or consultant, of responsibility for the quality of the engineering documents for the **Project**.
- 2F. PUBLIC PARTICIPATION. The **City** shall provide the public and all abutters with opportunity to learn about the **Project** and express concerns, using a public process that is appropriate for the scope of work and acceptable to the **MaineDOT** Project Manager. A public process certification (Letter 16) shall be part of the final PS&E package.
- 2G. ENVIRONMENTAL PROCESS. The **City** shall prepare and submit to **MaineDOT** all required environmental documents, including but not limited to Letter 11 and the National Environmental Policy Act (NEPA) checklist. **MaineDOT** will prepare and submit to the Federal Highway Administration all documentation required under NEPA.
- 2H. PERMITS. The **City** shall obtain all approvals, permits and licenses needed for the **Project**. The **City** also shall provide copies of such documents and an environmental certification (Letter 12) to **MaineDOT** with the final PS&E package.
- 2I. UTILITIES. The **City** shall coordinate the **Project** with all utilities and any railroad that may be affected by the work. The **City** shall submit a utility certification (Letter 13) to **MaineDOT** with the final PS&E package, in accordance with federal regulation 23 CFR, Section 635.609, "Authorization." **MaineDOT's** Utility Accommodation Rules (2014) shall apply to all required utility relocations.
- 2J. RIGHT OF WAY. If permanent or temporary property rights will be needed to construct and maintain the **Project**, the **City** shall carry out the right-of-way process since the **City** shall hold all such rights acquired. In doing so, the **City** shall:
1. Follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Uniform Act") and the **MaineDOT** "Right of Way Manual."
  2. Provide a right-of-way map or similar plan prepared in accordance with **MaineDOT's** standards showing all rights obtained for the **Project**.
  3. Provide a written certification (Letter 10) with the PS&E package that all rights have been acquired in conformity with the "Uniform Act."
  4. Dedicate permanently to the **Project** for public use any municipal property needed for the **Project**.

- 2K. FORCE ACCOUNT. If the **City** intends to use municipal labor or materials for the **Project**, the **City** shall obtain **MaineDOT**'s written authorization for a "force account" process before proceeding. If so authorized, the **City** shall comply with federal regulation 23 CFR, sections 635.201 to 635.205: "Force account construction."
- 2L. SOLICITATION OF BIDS. The **City** shall use competitive bidding to hire a construction contractor unless **MaineDOT** approves a "force account" process. Upon **MaineDOT**'s written authorization, the **City** shall advertise for bids, as follows:
1. The **City** shall follow the procedures in **MaineDOT**'s Standard Specifications (November 2014 Edition), Section 102, "Bidding."
  2. The **City** shall submit bid tabulations to **MaineDOT** for review and shall obtain **MaineDOT**'s written approval before awarding a contract.
- 2M. CONTRACT AWARD. Upon receiving **MaineDOT**'s written approval, the **City** shall award a contract to the lowest responsive and responsible bidder in accordance with **MaineDOT**'s Standard Specifications (November 2014 Edition), Section 103, "Award and Contracting." The **City** shall administer the contract for the duration of the **Project**.
- 2N. CONSTRUCTION. The **City** shall hold a pre-construction meeting with **MaineDOT**, the contractor, utilities and any other parties involved in the construction work. The **City** shall provide the supervision, inspection and documentation necessary to ensure that the **Project** is completed to **MaineDOT**'s satisfaction in accordance with the final plans, specifications, special provisions and contract provisions, as follows:
1. The **City** shall coordinate materials testing to meet the Minimum Testing Requirements for the **Project**, in compliance with federal regulation 23 CFR, section 637, "Quality Assurance Procedures for Construction."
  2. The **City** shall submit construction contract modifications to **MaineDOT** for review and comment before they are executed. ***MaineDOT** reserves the right not to reimburse the **City** for work under contract modifications executed without **MaineDOT**'s prior review.*
  3. Upon completion, the **City** shall certify in writing that the **Project** was constructed, quantities were measured and documented, and materials were tested in accordance with the final, approved plans, specifications and provisions of the contract.
- 2O. MAINEDOT OVERSIGHT. **MaineDOT** may inspect construction activities and documentation – and test materials used – to ensure compliance with the **Project** specifications and construction contract. **MaineDOT** may reject work or materials out of compliance and withhold reimbursement to the **City** for such work or materials.
- 2P. MAINTENANCE. The **City** shall maintain year-round the federally funded improvements completed under this Agreement for their standard useful design life or twenty (20) years, whichever is longer. Maintenance work shall consist of upkeep and repairs needed to maintain a firm, stable and slip-resistant surface, including snow removal. Maintenance shall not be delegated to any other party without specific, written approval from **MaineDOT**, which shall be attached to this Agreement.

### **ARTICLE 3. FINANCIAL PROVISIONS**

---

- 3A. MAINEDOT SHARE. **MaineDOT**, using funding from the Federal Highway Administration, will share in all federally eligible **Project** costs at the rate of eighty percent (**80%**), up to a maximum contribution at this rate of two hundred nine thousand three hundred four dollars (**\$209,304.**)
- 3B. LOCAL SHARE. The **City**, with a funding source other than from the U.S. Department of Transportation, shall share in all federally eligible **Project** costs at the rate of twenty percent (**20%**), or fifty-two thousand three hundred twenty-six dollars (**\$52,326**). Furthermore, the **City** exclusively shall be responsible for all expenditures:
1. Incurred before the date of notice to proceed, as set forth in Article 2A, "Authorization";
  2. Deemed ineligible for federal financial participation; and
  3. Exceeding the upset limit of this Agreement, as set forth in Article 1B, "Funding."
- 3C. MAINEDOT COSTS. Costs that **MaineDOT** incurs for work on the **Project** shall be paid for out of the **Project**. The **City** shall share in these costs as set forth in Article 3B, "Local Share." **MaineDOT** will reconcile these costs upon completion of the **Project** and deduct the **City's** share from the final invoice payment.
- 3D. REIMBURSEMENT. **MaineDOT** will reimburse the **City** for federally eligible costs incurred on the **Project** at the rate in Article 3A, "MaineDOT Share." The **City** shall bill **MaineDOT** no more than monthly but no less than quarterly, subject to these conditions:
1. The **City** shall submit Invoices on letterhead and reference WIN 21767.00.
  2. **MaineDOT** will make no payment unless the **City** has incurred a cost and submitted to **MaineDOT** the receipted invoice and proof of payment, including a breakdown of the charges incurred in sufficient detail to satisfy the **MaineDOT** Project Manager.
  3. Each invoice must include a progress report in accordance with Article 2C.
  4. Each invoice must show **MaineDOT's** and the **City's** shares of **Project** costs, including a running total of all costs incurred to date.
  5. The **City** must certify that amounts claimed are correct and not claimed previously.
  6. Payment of the final invoice shall be contingent upon a final inspection of the completed **Project** to determine the acceptability of the work.
- 3E. REPAYMENT. If the **City** withdraws from the **Project** without concurrence from **MaineDOT**, leading to termination of this Agreement for cause under Article 4, "Termination," the **City** shall refund all payments from **MaineDOT** toward the **Project** and reimburse **MaineDOT** fully for costs incurred for work in the **Project**.
- 3F. SET-OFF. **MaineDOT** may exercise all of its rights of set-off to recover payment to the **City** for work subsequently deemed ineligible for federal-aid funding. These rights will include, but will not be limited to, **MaineDOT's** option to withhold money owed to the **City** under this Agreement and any other agreement with **MaineDOT** or any other agency of the State of Maine, including any contract starting before the effective date of this Agreement.

## **ARTICLE 4. TERMINATION**

---

- 4A. FOR CAUSE. **MaineDOT** will have just cause to terminate this Agreement in the event of default by the **City**, as defined in Article 4B below. **MaineDOT** will afford the **City** a cure period of fourteen (14) calendar days, effective on the **City's** receipt of Notice of Default. If the **City** fails to address all defaults within this cure period, **MaineDOT** may terminate this Agreement for cause, with these conditions:
1. The **City** and all contracted parties shall stop work on the **Project** immediately – except for work required to protect public health and safety – and shall abide by the terms of Article 5 below regarding the treatment of records for the terminated **Project**.
  2. If termination is the result of the **City's** failure to correct any occurrence of default, **MaineDOT** shall recover from the **City** reimbursements made and **Project** costs incurred in accordance with Article 3E, "Repayment."
- 4B. DEFAULT. **MaineDOT** shall send the **City** a Notice of Default if the **City**:
- Withdraws from the **Project** without written concurrence from **MaineDOT**; or
  - Fails to provide matching funds as set forth in Article 3B, "Local Share"; or
  - Makes inadequate progress within 18 months of execution of this Agreement; or
  - Takes any action that renders the **Project** ineligible for federal-aid funding; or
  - Uses **Project** funds for a purpose not authorized by this Agreement; or
  - Misrepresents or falsifies of any claim for reimbursement; or
  - Fails to meet standards of performance outlined in this Agreement.
- 4C. FOR CONVENIENCE. The **Parties** may terminate this Agreement for convenience by mutual consent for any reason not defined as "default," as follows:
1. In case of Termination for Convenience, **MaineDOT** will reimburse the **City** for federally eligible work performed under this Agreement until the effective termination date. The **City's** share of **MaineDOT's** costs for working on the **Project** shall be deducted from the final invoice amount to the **City** in accordance with Article 3C, "MaineDOT Costs."
  2. All **Project** records shall be handled in accordance with the terms of Article 5 below.

## **ARTICLE 5. RECORDS & AUDIT**

---

- 5A. **Project** records are printed or electronic plans, specifications, contracts, reports, notes, or other documents prepared by or for the **City**. The **City** shall retain all such records for at least **five (5) years** from the date of **MaineDOT's** acceptance of the final invoice for the **Project**. If any litigation, claim, negotiation or audit has begun before the end of this five (5) year period, all such records shall be kept at least until all action and resolution of all issues arising from it are complete. All records shall be provided to **MaineDOT** upon request after completion or termination of the **Project**.

- 5B. The **City** and any consultant or contractor working on its behalf shall allow authorized representatives of the Federal Government and the State of Maine to inspect and audit **Project** records at reasonable times. Copies shall be furnished at no cost to the Federal Government or to the State of Maine.
- 5C. Audits shall be performed in accordance with generally accepted government auditing standards and federal regulation 2 CFR, Section 200, Subpart F - "Audit Requirements."

## **ARTICLE 6. GENERAL PROVISIONS**

---

- 6A. GOVERNING LAW. This Agreement is made and shall be construed under the laws of the State of Maine. Since this Agreement covers a **Project** employing federal-aid funds, all activities under this document shall be performed in accordance with applicable federal regulations, including but not limited to 23 CFR, "Highways"; 49 CFR, "Transportation"; and 2 CFR, Section 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."
- 6B. INDEMNIFICATION. To the extent allowed by law, the **City** shall indemnify, defend and hold harmless **MaineDOT**, its officers, agents and employees from all claims, suits or liabilities arising from negligent or wrongful act, error or omission by the **City**, its officers, employees, agents, consultants or contractors. Nothing in this article shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or other privileges or immunities provided by law. *Any other provision of this Agreement to the contrary notwithstanding, this provision shall survive the termination or expiration of this Agreement.*
- 6C. CONFIDENTIALITY. The **City** shall protect the confidentiality of right-of-way negotiations, property appraisals, and engineering estimates of the cost to construct the **Project**, in accordance with the provisions of Title 23 of the Maine Revised Statutes Annotated (MRSA), Section 63, "Confidentiality of records."
- 6D. INDEPENDENT CAPACITY. The **City**, its employees, agents, representatives, consultants and contractors *shall not* act as officers, employees or agents of **MaineDOT**.
- 6E. EQUAL EMPLOYMENT OPPORTUNITY. The **City** shall adhere to all EEO requirements in the administration of the **Project**, as follows:
1. The **City** shall not discriminate against any employee or applicant for employment *relating specifically to work under this Agreement* because of race, color, religious creed, sex, national origin, ancestry, age, sexual orientation or disability unless related to a bona fide occupational qualification. The **City** shall take affirmative action to ensure that all such applicants are employed and that all such employees are treated regardless of their race, color, religious creed, sex, national origin, ancestry, age or disability during any period of employment under this Agreement.
  2. In all solicitations or advertising for employees relating to work done under this Agreement, the **City** shall state that all qualified applicants shall receive consideration for employment regardless of race, color, religious creed, sex, national origin, ancestry, age, sexual orientation or disability.

3. The **City** shall include the previous EEO provisions under this Article in any contract for services or work for the **Project** so that such provisions are binding upon each consultant and contractor – with the exception of any contract for the purchase of standard commercial supplies or raw materials. To the maximum extent feasible, the **City** and its consultants and contractors shall list all suitable employment openings with the Maine Job Service.
- 6F. FLOW DOWN. Contracts between the **City** and all third parties shall contain or incorporate by reference applicable provisions of this Agreement.
- 6G. BINDING EFFECT. The **Parties** shall be bound by the terms of this Agreement, which shall apply to its executors, their successors, administrators and legal representatives.
- 6H. ENTIRE AGREEMENT. This document represents the entire Agreement between the **Parties**. Neither **MaineDOT** nor the **City** shall be bound by any statement, correspondence, agreement or representation not expressly contained in this Agreement.

## **ARTICLE 7. DEBARMENT**

---

- 7A. The **City** certifies to the best of its knowledge and belief that it and its officers, agents and employees associated with the **Project** are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by the Federal Government. If the **City** cannot certify to this statement, it shall attach an explanation to this Agreement. For the term of this Agreement, the **City** shall notify **MaineDOT** promptly if it or any officer, agent or employee associated with the **Project** is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by the Federal Government.
- 7B. The **City** agrees that it shall not hire an outside entity that is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by the Federal Government.
- 7C. The **City** agrees that if it contracts with an outside entity, that entity and its principals shall certify that they:
1. Have not within a 3-year period preceding the date of such contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with the following: a.) obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; b.) violating federal or state antitrust statutes; and c.) committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
  2. Are not currently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph 1 of this section; and
  3. Have not within a 3-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

## **ARTICLE 8. CONFLICT OF INTEREST**

---

The **City** shall avoid contracting with an outside entity that has a financial or other interest in the **Project** or in its outcome, other than the performance of the contract. This prohibition applies to: a.) any agreement with, or other interest involving, third parties having an interest in the outcome of the **Project** that is the subject to the contract; b.) any agreement providing incentives or guarantees of future work on the **Project** or related matters; and c.) any interest in real property acquired for the **Project** unless such interest is disclosed to **MaineDOT** before the person or entity entered into the contract.

## **ARTICLE 9. EXPIRATION**

---

This Agreement shall expire upon satisfactory completion of the **Project** or **five (5) years** from the final day of the month in which this Agreement was executed, whichever occurs first, except as follows:

- Article 2Q, "Maintenance," shall be enforced for at least twenty (20) years.
- Article 5, "Records & Audit," shall remain in place until all activity pursuant to this provision is completed.
- Article 6B, "Indemnification," shall remain in place until specifically terminated by the **Parties** or negated by law.
- Article 6C, "Confidentiality," shall remain in effect until negated by law.

## **ARTICLE 10. AGREEMENT APPROVAL**

---

The undersigned municipal representative assures that the **City Council of Bangor, Maine** has approved the **City's** entry into this Agreement, has appropriated or authorized use of required matching funds, and has authorized the representative to sign this Agreement.

IN WITNESS WHEREOF, the **Parties** have executed this Agreement effective on the date last signed below.

**City of Bangor**

**Maine Department of Transportation**

By: \_\_\_\_\_  
**Catherine M. Conlow, City Manager**

By: \_\_\_\_\_  
**William A. Pulver, P.E., Director,**  
Bureau of Project Development

Date: \_\_\_\_\_

Date: \_\_\_\_\_

*I certify that the foregoing signature is true and accurate. I further certify – pursuant to 10 M.R.S.A. §9407 and §9502 – that the signature, if electronic: (a) is intended to have the same force as my manual signature; (b) is unique to me; (c) is capable of verification; and (d) is under my control.*

## Federal Funding Accountability and Transparency Act

The **City of Bangor, Maine** and its contractors may be subject to the provisions of the Federal Funding Accountability and Transparency Act of 2006 as amended and any regulations, policies, procedures and guidance documents adopted pursuant thereto or in connection therewith.

If the Federal portion of the **Project** exceeds \$25,000, an authorized representative from the **City** shall sign this document under (B) below and return it with the **Project** Agreement. Additionally, the **City** shall provide the following information, *if applicable*:

A) The total compensation and names of the top five officers if:

- More than 80% of the **City**'s annual gross revenues are from the U.S. Federal Government; and
- Those revenues are greater than \$25 million annually; and
- Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission (SEC).

B) Legal name and DUNS<sup>®</sup> number on file with the Central Contractor Registration (CCR):

<u>City of Bangor, Maine</u>	<u>07-173-9692</u>
Sign and Print Legal CCR Name	DUNS <sup>®</sup> Number

Authorized Representative: \_\_\_\_\_  
**Catherine M. Conlow, City Manager**

**U.S. Department of Transportation (U.S. DOT)**  
Federal Highway Administration – Standard Title VI / Nondiscrimination Assurances

---

**DOT Order No. 1050.2A**

The **City of Bangor** (the "Recipient") **AGREES THAT**, as a condition of receiving Federal financial assistance from the U.S. Department of Transportation (U.S. DOT) through the Federal Highway Administration (FHWA), it is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory citations hereinafter are referred to as the "Acts" and "Regulations," respectively.

**General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from the U.S. DOT, including the FHWA.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Nondiscrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

**Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its federally assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

**ATTACHMENT 2**

*The City of Bangor, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.*

- 3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or Agreement subject to the Acts and the Regulations.**
4. If applicable, the Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. If applicable, the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Recipient also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA. You must keep records, reports, and submit the material for review upon request to the FHWA, or their designees in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation. This ASSURANCE is binding on the Recipient, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in it programs. The person signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

DATED \_\_\_\_\_

By \_\_\_\_\_  
**Catherine M. Conlow, City Manager**  
**City of Bangor**

Encl.: Appendices A and E

**TITLE VI ASSURANCES: APPENDIX A**

---

During the performance of this contract, the *City*, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The *City* will comply with the Acts and the Regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement, as set forth in Appendix E to these Assurances.
2. **Nondiscrimination:** The *City*, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of consultants and contractors, including procurements of materials and leases of equipment. The *City* will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E to these Assurances, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the *City* for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential consultant or contractor will be notified by the *City* of the *City*'s obligations under this Agreement and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, as set forth in Appendix E to these Assurances.
4. **Information and Reports:** The *City* will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Maine Department of Transportation or the Federal Highway Administration, to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of the *City* is in the exclusive possession of another who fails or refuses to furnish the information, the *City* will so certify to the Maine Department of Transportation or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for noncompliance:** In the event of the *City*'s noncompliance with the Non-discrimination provisions of this Agreement, MaineDOT will impose such Agreement sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the *City* under the Agreement until the *City* complies; and/or
  - b. Cancelling, terminating, or suspending the Agreement, in whole or in part.

**Incorporation of Provisions:** The *City* will include the provisions of paragraphs one through five above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The *City* will take action with respect to any subcontract or procurement as the Maine Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the *City* becomes involved in, or is threatened with litigation by a consultant, contractor, or supplier because of such direction, the *City* may request the Maine Department of Transportation to enter into any litigation to protect the interests of the Maine Department of Transportation. In addition, the *City* may request the United States to enter into the litigation to protect the interests of the United States.

**ATTACHMENT 2**

**TITLE VI ASSURANCES: APPENDIX E**

---

During the performance of this contract, the **City of Bangor**, for itself, its assignees, and successors in interest (hereinafter referred to as the “**City**”) agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. §4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. §324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. §794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. §6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. §471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. §47123) (prohibits discrimination on the basis of race, color, national origin and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

**Date: April 25, 2016**

**Item/Subject: ORDER, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – Finson Road Sidewalk, WIN 21661.00**

**Responsible Department: Engineering**

**Commentary:**

This order would authorize the City Manager to execute a Local Project Agreement with the Maine Department of Transportation for design and construction of a sidewalk on Finson Road for 0.38 miles, beginning at Davis Road and ending 0.04 of a mile south of Blue Hill East.

The Maine Department of Transportation has approved funds in an amount not to exceed \$151,000.00. The total State/Federal share of 80% is equal to \$120,800.00, and the Municipality share of 20% is equal to \$30,200.00. As a condition of this funding, the City is required to enter into a Local Project Agreement with the Maine Department of Transportation.

This item was reviewed and recommended for approval at the Infrastructure Committee meeting on April 12, 2016.

John M. Theriault, PTOE, PE  
Department Head

**Manager's Comments:**

Carl M. Cook  
City Manager

**Associated Information:** Council Order, Agreement

**Budget Approval:**

[Signature]  
Finance Director

**Legal Approval:**

[Signature]  
City Solicitor

**Introduced for**

- Passage
- First Reading
- Referral

Assigned to Councilor Durgin



## CITY OF BANGOR

---

**(TITLE.) Order, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – Finson Road Sidewalk, WIN 21661.00**

(TITLE.) ORDER, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – WIN #21661.00, Finson Road Sidewalk Project

ORDERED,

THAT: the City Manager is hereby authorized and directed to execute an agreement with the Maine Department of Transportation for the following:

An Agreement with the Maine Department of Transportation – Finson Road Sidewalk Project, WIN #21661.00

Copy of the agreement is attached.



<i>MaineDOT use only</i>	
AMS ID:	_____
CSN:	_____
TEDOCS #:	_____
PROGRAM:	Multimodal (OUC 57000)

**MAINE DEPARTMENT OF TRANSPORTATION  
Locally Administered Project Agreement**

With the  
**City of Bangor**  
Regarding

**New Sidewalk on Finson Road: WIN 21661.00**

Total Agreement Amount: \$151,000	Federal Project #: _____
Federal Share: \$120,800	Federal Authorization Date: _____
Municipal Share: \$30,200	City of Bangor Vendor ID: VC1000007010
Effective Date: _____	City's DUNS® Number: 07-173-9692
Expiration Date: _____	CFDA #20.205: Highway Planning & Construction

This subaward agreement for a federal-aid project is made between the Maine Department of Transportation, an agency of the State of Maine with headquarters at 24 Child Street in Augusta, Maine ("MaineDOT"), and the **City of Bangor**, a body corporate and politic with its primary offices at 73 Harlow Street in Bangor, Maine ("the **City**.")

This Agreement contains the following attachments:

1. Federal Funding Accountability and Transparency Act (municipal signature required);
2. Federal Title VI Assurances (municipal signature required).

WHEREAS, **MaineDOT** selected the work described in Article 1A for federal assistance through its Quality Community Program and for inclusion in its 2016-2018 Work Plan; and

WHEREAS, the **City** shall deliver the work in Article 1A as a locally administered project subject to **MaineDOT** oversight, based on its record of delivering such projects successfully.

NOW, in consideration of the previous statements, **MaineDOT** and the **City** ("the **Parties**") agree to the following terms:

**ARTICLE 1 – PROJECT OVERVIEW**

1A. SCOPE OF WORK. The work eligible for funding from **MaineDOT** will consist of design, right-of-way, construction, and construction engineering for a sidewalk along 0.38 mile of Finson Road, beginning at Davis Road and ending 0.04 of a mile south of Blue Hill East ("the **Project**." Any substantial change to this scope of work shall require **MaineDOT**'s written approval to be eligible for financial assistance from **MaineDOT**.

1B. FUNDING. **MaineDOT** programmed a total of one hundred fifty-one thousand dollars (\$151,000) for the **Project** to be shared at the rates in Article 3. **Project** costs eligible for financial assistance from **MaineDOT** shall not exceed this amount without **MaineDOT**'s written approval, through an executed modification to this Agreement.

1C. ROLE OF CITY. The **City** shall assign a full-time employee with certification from **MaineDOT** to manage the **Project** and carry out the **City's** responsibilities. This Local Project Administrator shall follow the guidance in the latest edition of **MaineDOT's** Local Project Administration Manual. If the certified administrator leaves the **City** or ceases to oversee the **Project**, the **City** shall stop work and notify the **MaineDOT** Project Manager. **MaineDOT** will evaluate the situation and determine a course of action.

- The **City** has assigned the following person to serve as Local Project Administrator:  
Ted Trembley, Design Engineer  
City of Bangor, Engineering Department  
Phone: (207) 992-4251  
Email: [ted.trembley@bangormaine.gov](mailto:ted.trembley@bangormaine.gov)

1D. ROLE OF MAINEDOT. **MaineDOT** will assign a Project Manager to carry out the State of Maine's responsibilities. This person or a designee will have the authority to request design changes to meet applicable laws and design standards; accept or reject invoices; review construction activities to ensure compliance with contract documents; and take all other action necessary to ensure the proper performance of this Agreement.

- MaineDOT** has assigned the following person to serve as Project Manager:  
Catherine Rand, Project Manager I  
Bureau of Project Development, Multimodal Program  
Phone: (207) 634-3451 / (207) 557-1662  
Email: [Catherine.Rand@maine.gov](mailto:Catherine.Rand@maine.gov)

## **ARTICLE 2 – PROJECT DEVELOPMENT**

---

2A. AUTHORIZATION. The **City** shall receive notice to proceed from **MaineDOT** before starting reimbursable work or executing any service contract under this Agreement. This notice shall be contingent upon **MaineDOT** receiving authorization for federal financial participation in the **Project** and executing this Agreement.

2B. KICKOFF. The **City** shall hold a project kickoff with **MaineDOT** to go over the scope of work, estimated cost, schedule, and legal requirements before any work begins.

2C. PROGRESS REPORTS. The **City** shall provide **MaineDOT** with regular progress reports for the **Project** at intervals established by **MaineDOT's** Project Manager.

2D. CONSULTANT SERVICES. The **City** may contract for consultant services to assist with development and delivery of the **Project**. In doing so, the **City** shall:

1. Use a qualifications-based process, in accordance with federal regulation 23 CFR, Section 172, "Administration of engineering and design-related service contracts."
2. Obtain the **MaineDOT** Project Manager's approval before awarding a contract.
3. Incorporate the "Consultant General Conditions for Local Public Agencies" into all contracts for services.
4. Obtain **MaineDOT's** written approval before modifying a contract. ***MaineDOT** shall not reimburse the **City** for work performed under a modification executed without prior approval or work performed before the effective date of a modification.*

- 2E. DESIGN WORK. All design plans, specifications, estimates and contract documents for the **Project** shall be developed in accordance with applicable sections of **MaineDOT's** Engineering Instructions, Highway Design Guide, Standard Specifications, and Standard Details, as follows:
1. The **City** shall submit a preliminary design report and the final plans, specifications and estimate (PS&E) package to **MaineDOT** for review and comment.
  2. The **City** shall address, to **MaineDOT's** satisfaction, changes requested or concerns expressed before **MaineDOT** will authorize the **City** to advertise for construction bids. Advertising for bids or proceeding to the construction stage without **MaineDOT's** written authorization shall render the **Project** ineligible for federal funding.
  3. **MaineDOT's** acceptance of the PS&E package shall not relieve the Engineer of Record, whether a **City** employee or consultant, of responsibility for the quality of the engineering documents for the **Project**.
- 2F. PUBLIC PARTICIPATION. The **City** shall provide the public and all abutters with opportunity to learn about the **Project** and express concerns, using a public process that is appropriate for the scope of work and acceptable to the **MaineDOT** Project Manager. A public process certification (Letter 16) shall be part of the final PS&E package.
- 2G. ENVIRONMENTAL PROCESS. The **City** shall prepare and submit to **MaineDOT** all required environmental documents, including but not limited to Letter 11 and the National Environmental Policy Act (NEPA) checklist. **MaineDOT** will prepare and submit to the Federal Highway Administration all documentation required under NEPA.
- 2H. PERMITS. The **City** shall obtain all required approvals, permits and licenses for the **Project**. The **City** shall submit copies of all such documents and an environmental certification (Letter 12) to **MaineDOT** with the final PS&E package.
- 2I. UTILITIES. The **City** shall coordinate the **Project** with all utilities and any railroad that may be affected by the work. The **City** shall submit a utility certification (Letter 13) to **MaineDOT** with the final PS&E package, in accordance with federal regulation 23 CFR, Section 635.609, "Authorization." **MaineDOT's** Utility Accommodation Rules (2014) shall apply to all required utility relocations.
- 2J. RIGHT OF WAY. The **City** shall carry out the right-of-way process if property rights will be needed for the **Project**, since the **Project** is located on a local street not under the jurisdiction of the State of Maine. The **City** shall follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Uniform Act") and the **MaineDOT** "Right of Way Manual." Upon completion of acquisitions, the **City** shall provide the following, before requesting authorization to advertise for competitive bids:
1. A right-of-way map or similar plan prepared in accordance with **MaineDOT's** standards showing all rights obtained for the **Project**; and
  2. A written certification (Letter 10) that all rights have been acquired in conformity with the "Uniform Act."
  3. The **City** shall dedicate permanently to the **Project** for public use any municipal property needed for the **Project**.

- 2K. **FORCE ACCOUNT.** If the **City** intends to use municipal labor or materials for the **Project**, the **City** shall obtain **MaineDOT**'s written authorization for a "force account" process before proceeding. If so authorized, the **City** shall comply with federal regulation 23 CFR, sections 635.201 to 635.205: "Force account construction."
- 2L. **SOLICITATION OF BIDS.** The **City** shall use competitive bidding to hire a construction contractor unless **MaineDOT** approves a "force account" process. Upon **MaineDOT**'s written authorization, the **City** shall advertise for bids, as follows:
1. The **City** shall follow the procedures in **MaineDOT**'s Standard Specifications (November 2014 Edition), Section 102, "Bidding."
  2. The **City** shall submit bid tabulations to **MaineDOT** for review and shall obtain **MaineDOT**'s written approval before awarding a contract.
- 2M. **CONTRACT AWARD.** Upon receiving **MaineDOT**'s written approval, the **City** shall award a contract to the lowest responsive and responsible bidder in accordance with **MaineDOT**'s Standard Specifications (November 2014 Edition), Section 103, "Award and Contracting." The **City** shall administer the contract for the duration of the **Project**.
- 2N. **CONSTRUCTION.** The **City** shall hold a pre-construction meeting with **MaineDOT**, the contractor, utilities and any other parties involved in the construction work. The **City** shall provide the supervision, inspection and documentation necessary to ensure that the **Project** is completed to **MaineDOT**'s satisfaction in accordance with the final plans, specifications, special provisions and contract provisions, as follows:
1. The **City** shall coordinate materials testing required to meet the Minimum Testing Requirements for the **Project**, in compliance with federal regulation 23 CFR, section 637, "Quality Assurance Procedures for Construction."
  2. The **City** shall submit contract modifications to **MaineDOT** for review and comment before they are executed. *MaineDOT reserves the right not to reimburse the **City** for work under any contract modification executed without **MaineDOT**'s prior review.*
  3. Upon completion, the **City** shall certify in writing that the **Project** was constructed, quantities were measured and documented, and materials were tested in accordance with the final, approved plans, specifications and provisions of the contract.
  4. If applicable, the **City** shall provide **MaineDOT** with a set of revised as-built plans within 90 days of completion of construction.
- 2O. **MAINEDOT OVERSIGHT.** **MaineDOT** may inspect construction activities and documentation – and test materials used – to ensure compliance with the **Project** specifications and construction contract. **MaineDOT** may reject work or materials out of compliance and withhold reimbursement to the **City** for such work or materials.
- 2P. **MAINTENANCE.** The **City** shall maintain the completed sidewalk year-round for its standard useful life or twenty (20) years, whichever is longer. Maintenance work shall consist of upkeep and repairs needed to maintain a firm, stable and slip-resistant surface, including snow removal. Maintenance shall not be delegated to any other party without specific, written approval from **MaineDOT**, which shall be attached to this Agreement.

## **ARTICLE 3 – FINANCIAL PROVISIONS**

---

- 3A. **MAINEDOT SHARE.** **MaineDOT** will share in all federally eligible **Project** costs eligible for funding from the Federal Highway Administration at the rate of eighty percent (**80%**), up to a maximum contribution of one hundred twenty thousand eight hundred dollars (**\$120,800.**)
- 3B. **LOCAL SHARE.** The **City**, with funding other than from the U.S. Department of Transportation, shall share in all federally eligible **Project** costs at the rate of twenty percent (**20%**), or an estimated thirty thousand two hundred dollars (**\$30,200.**) Furthermore, the **City** exclusively shall be responsible in full for all expenditures:
1. Incurred before the date of notice to proceed, as set forth in Article 2A, "Authorization";
  2. Deemed ineligible for federal financial participation; and
  3. Exceeding the upset limit of this Agreement, as set forth in Article 1B, "Funding."
- 3C. **MAINEDOT COSTS.** Costs that **MaineDOT** incurs for work on the **Project** shall be paid for out of the **Project**. The **City** shall share in these costs as set forth in Article 3B, "Local Share." **MaineDOT** will reconcile these costs upon completion of the **Project** and deduct the **City's** share from the final invoice payment.
- 3D. **REIMBURSEMENT.** **MaineDOT** will reimburse the **City** for federally eligible costs incurred on the **Project** at the rate in Article 3A, "MaineDOT Share." The **City** shall bill **MaineDOT** no more than monthly but no less than quarterly, subject to these conditions:
1. The **City** shall submit Invoices on letterhead and reference WIN 21661.00.
  2. **MaineDOT** will make no payment unless the **City** has incurred a cost and submitted to MaineDOT the receipted invoice and proof of payment, including a breakdown of the charges incurred in sufficient detail to satisfy the MaineDOT Project Manager.
  3. Each invoice must include a progress report in accordance with Article 2C.
  4. Each invoice must show **MaineDOT's** and the **City's** shares of **Project** costs, including a running total of all costs incurred to date.
  5. The **City** must certify that amounts claimed are correct and not claimed previously.
  6. Payment of the final invoice shall be contingent upon a final inspection of the completed **Project** to determine the acceptability of the work.
- 3E. **REPAYMENT.** If the **City** withdraws from the **Project** without concurrence from **MaineDOT**, leading to termination of this Agreement for cause under Article 4, "Termination," the **City** shall refund all payments from **MaineDOT** toward the **Project** and reimburse **MaineDOT** fully for costs incurred for work in the **Project**.
- 3F. **SET-OFF.** **MaineDOT** may exercise all of its common law, equitable and statutory rights of set-off to recover payment to the **City** for work subsequently deemed ineligible for federal funding. These rights will include, but will not be limited to, **MaineDOT's** option to withhold money owed to the **City** under this Agreement and any other agreement with **MaineDOT** or any other agency of the State of Maine, including any contract starting before the effective date of this Agreement.

## ARTICLE 4 – TERMINATION

---

- 4A. FOR CAUSE. **MaineDOT** will have just cause to terminate this Agreement in the event of default by the **City**, as defined in Article 4B below. **MaineDOT** will afford the **City** a cure period of fourteen (14) calendar days, effective on the **City**'s receipt of Notice of Default. If the **City** fails to address all defaults within this cure period, **MaineDOT** may terminate this Agreement for cause, with these conditions:
1. The **City** and all contracted parties shall stop work on the **Project** immediately – except for work required to protect public health and safety – and shall abide by the terms of Article 5 below regarding the treatment of records for the terminated **Project**.
  2. If termination is the result of the **City**'s failure to correct any occurrence of default, **MaineDOT** shall recover from the **City** reimbursements made and **Project** costs incurred in accordance with Article 3E, "Repayment."
  3. The **City** shall forfeit all unspent federal funds in the terminated **Project**.
- 4B. DEFAULT. **MaineDOT** shall send the **City** a Notice of Default if the **City**:
- Withdraws from the **Project** without written concurrence from **MaineDOT**; or
  - Fails to provide matching funds as set forth in Article 3B, "Local Share"; or
  - Makes inadequate progress within 18 months of execution of this Agreement; or
  - Takes any action that renders the **Project** ineligible for federal-aid funding; or
  - Uses **Project** funds for a purpose not authorized by this Agreement; or
  - Misrepresents or falsifies of any claim for reimbursement; or
  - Fails to meet standards of performance outlined in this Agreement.
- 4C. FOR CONVENIENCE. The **Parties** may terminate this Agreement for convenience by mutual consent for any reason not defined as "default," as follows:
1. In case of Termination for Convenience, **MaineDOT** will reimburse the **City** for federally eligible work performed until the effective termination date. The **City**'s share of **MaineDOT**'s costs for work on the **Project** shall be deducted from the final invoice amount owed to the **City** in accordance with Article 3C, "MaineDOT Costs."
  2. All **Project** records shall be handled in accordance with the terms of Article 5 below.
  3. **MaineDOT** will reprogram for other purposes all unspent federal funds in the **Project**.

## ARTICLE 5 – RECORDS & AUDIT

---

- 5A. **Project** records are printed or electronic plans, specifications, contracts, reports, notes, or other documents prepared by or for the **City**. The **City** shall retain all such records for at least **five (5) years** from the date of **MaineDOT**'s acceptance of the final invoice for the **Project**. If any litigation, claim, negotiation or audit has begun before the end of this five (5) year period, all such records shall be kept at least until all action and resolution of all issues arising from it are complete. All records shall be provided to **MaineDOT** upon request after completion or termination of the **Project**.

- 5B. The **City** and any consultant or contractor working on its behalf shall allow authorized representatives of the Federal Government and the State of Maine to inspect and audit **Project** records at reasonable times. Copies shall be furnished at no cost to the Federal Government or to the State of Maine.
- 5C. Audits shall be performed in accordance with generally accepted government auditing standards and federal regulation 2 CFR, Section 200, Subpart F - "Audit Requirements."

## **ARTICLE 6. GENERAL PROVISIONS**

---

- 6A. GOVERNING LAW. This Agreement is made and shall be construed under the laws of the State of Maine. Since this Agreement covers a **Project** employing federal-aid funds, all activities under this document shall be performed in accordance with applicable federal regulations, including but not limited to 23 CFR, "Highways"; 49 CFR, "Transportation"; and 2 CFR, Section 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."
- 6B. INDEMNIFICATION. To the extent allowed by law, the **City** shall indemnify, defend and hold harmless **MaineDOT**, its officers, agents and employees from all claims, suits or liabilities arising from negligent or wrongful act, error or omission by the **City**, its officers, employees, agents, consultants or contractors. Nothing in this article shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or other privileges or immunities provided by law. *Any other provision of this Agreement to the contrary notwithstanding, this provision shall survive the termination or expiration of this Agreement.*
- 6C. CONFIDENTIALITY. The **City** shall protect the confidentiality of right-of-way negotiations, property appraisals, and engineering estimates of the cost to construct the **Project**, in accordance with the provisions of Title 23 of the Maine Revised Statutes Annotated (MRSA), Section 63, "Confidentiality of records ... ."
- 6D. INDEPENDENT CAPACITY. The **City**, its employees, agents, representatives, consultants and contractors *shall not* act as officers, employees or agents of **MaineDOT**.
- 6E. FLOW DOWN. Contracts between the **City** and all third parties shall contain or incorporate by reference applicable provisions of this Agreement.
- 6F. EQUAL EMPLOYMENT OPPORTUNITY. The **City** shall adhere to all EEO requirements in the administration of the **Project**, as follows:
1. The **City** shall not discriminate against any employee or applicant for employment *relating specifically to work under this Agreement* because of race, color, religious creed, sex, national origin, ancestry, age, sexual orientation or disability unless related to a bona fide occupational qualification. The **City** shall take affirmative action to ensure that all such applicants are employed and that all such employees are treated regardless of their race, color, religious creed, sex, national origin, ancestry, age or disability during any period of employment under this Agreement.

2. In all solicitations or advertising for employees relating to work done under this Agreement, the **City** shall state that all qualified applicants shall receive consideration for employment regardless of race, color, religious creed, sex, national origin, ancestry, age, sexual orientation or disability.
3. The **City** shall include the previous EEO provisions under this Article in any contract for services or work for the **Project** so that such provisions are binding upon each consultant and contractor – with the exception of any contract for the purchase of standard commercial supplies or raw materials. To the maximum extent feasible, the **City** and its consultants and contractors shall list all suitable employment openings with the Maine Job Service.

6G. BINDING EFFECT. The **Parties** shall be bound by the terms of this Agreement, which shall apply to its executors, their successors, administrators and legal representatives.

6H. ENTIRE AGREEMENT. This document represents the entire Agreement between the **Parties**. Neither **MaineDOT** nor the **City** shall be bound by any statement, correspondence, agreement or representation not expressly contained in this Agreement.

## **ARTICLE 7. DEBARMENT**

---

- 7A. The **City** certifies to the best of its knowledge and belief that it and its officers, agents and employees associated with the **Project** are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by the Federal Government. If the **City** cannot certify to this statement, it shall attach an explanation to this Agreement. For the term of this Agreement, the **City** shall notify **MaineDOT** promptly if it or any officer, agent or employee associated with the **Project** is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by the Federal Government.
- 7B. The **City** agrees that it shall not hire an outside entity that is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by the Federal Government.
- 7C. The **City** agrees that if it contracts with an outside entity, that entity and its principals shall certify that they:
1. Have not within a 3-year period preceding the date of such contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with the following: a.) obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; b.) violating federal or state antitrust statutes; and c.) committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
  2. Are not currently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph 1 of this section; and
  3. Have not within a 3-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

**ARTICLE 8. CONFLICT OF INTEREST**

---

The **City** shall avoid contracting with an outside entity that has a financial or other interest in the **Project** or in its outcome, other than the performance of the contract. This prohibition applies to: a.) any agreement with, or other interest involving, third parties having an interest in the outcome of the **Project** that is the subject to the contract; b.) any agreement providing incentives or guarantees of future work on the **Project** or related matters; and c.) any interest in real property acquired for the **Project** unless such interest is disclosed to **MaineDOT** before the person or entity entered into the contract.

**ARTICLE 9. EXPIRATION**

---

This Agreement shall expire upon satisfactory completion of the **Project** or **five (5) years** from the final day of the month in which this Agreement was executed, whichever occurs first, except as follows:

- Article 2Q, "Maintenance," shall be enforced for at least twenty (20) years.
- Article 5, "Records & Audit," shall remain in place until all activity pursuant to this provision is completed.
- Article 6B, "Indemnification," shall remain in place until specifically terminated by the **Parties** or negated by law.
- Article 6C, "Confidentiality," shall remain in effect until negated by law.

**ARTICLE 10. AGREEMENT APPROVAL**

---

The undersigned municipal representative assures that the City Council of Bangor, Maine, has approved the **City's** entry into this Agreement, has appropriated or authorized use of required matching funds, and has authorized the representative to sign this Agreement.

**IN WITNESS WHEREOF**, the **Parties** have executed this Agreement effective on the date last signed below.

**City of Bangor**

**Maine Department of Transportation**

By: \_\_\_\_\_  
**Catherine M. Conlow, City Manager**

By: \_\_\_\_\_  
**William A. Pulver, P.E., Director  
Bureau of Project Development**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

*I certify that the foregoing signature is true and accurate. I further certify – pursuant to 10 M.R.S.A. §9407 and §9502 – that the signature, if electronic: (a) is intended to have the same force as my manual signature; (b) is unique to me; (c) is capable of verification; and (d) is under my control.*

ATTACHMENT 1

**Federal Funding Accountability and Transparency Act**

---

The **City of Bangor, Maine** and its contractors may be subject to the provisions of the Federal Funding Accountability and Transparency Act of 2006 as amended and any regulations, policies, procedures and guidance documents adopted pursuant thereto or in connection therewith.

If the Federal portion of the **Project** exceeds \$25,000, an authorized representative from the **City** shall sign this document under (B) below and return it with the **Project** Agreement. Additionally, the **City** shall provide the following information, *if applicable*:

- A) The total compensation and names of the top five officers if:
- More than 80% of the **City**'s annual gross revenues are from the Federal Government; and
  - Those revenues are greater than \$25 million annually; and
  - Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission (SEC).
- B) Legal name and DUNS<sup>®</sup> number on file with the Central Contractor Registration (CCR):

<b>City of Bangor, Maine</b>	<b>07-173-9692</b>
Sign and Print Legal CCR Name	DUNS <sup>®</sup> Number

---

Authorized Representative: \_\_\_\_\_  
**Catherine M. Conlow, City Manager**

**U.S. Department of Transportation (U.S. DOT)**  
Federal Highway Administration – Standard Title VI / Nondiscrimination Assurances

---

**DOT Order No. 1050.2A**

The **City of Bangor** (the "Recipient") **AGREES THAT**, as a condition of receiving Federal financial assistance from the U.S. Department of Transportation (U.S. DOT) through the Federal Highway Administration (FHWA), it is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory citations hereinafter are referred to as the "Acts" and "Regulations," respectively.

**General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from the U.S. DOT, including the FHWA.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Nondiscrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

**Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its federally assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*The City of Bangor, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.*

- 3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or Agreement subject to the Acts and the Regulations.**
4. If applicable, the Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. If applicable, the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Recipient also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA. You must keep records, reports, and submit the material for review upon request to the FHWA, or their designees in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation. This ASSURANCE is binding on the Recipient, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in it programs. The person signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

DATED \_\_\_\_\_

By \_\_\_\_\_  
**Catherine M. Conlow, City Manager**  
**City of Bangor**

Encl.: Appendices A and E

**TITLE VI ASSURANCES: APPENDIX A**

---

During the performance of this contract, the *City*, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The *City* will comply with the Acts and the Regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement, as set forth in Appendix E to these Assurances.
2. **Nondiscrimination:** The *City*, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of consultants and contractors, including procurements of materials and leases of equipment. The *City* will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E to these Assurances, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the *City* for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential consultant or contractor will be notified by the *City* of the *City*'s obligations under this Agreement and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, as set forth in Appendix E to these Assurances.
4. **Information and Reports:** The *City* will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Maine Department of Transportation or the Federal Highway Administration, to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of the *City* is in the exclusive possession of another who fails or refuses to furnish the information, the *City* will so certify to the Maine Department of Transportation or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for noncompliance:** In the event of the *City*'s noncompliance with the Non-discrimination provisions of this Agreement, MaineDOT will impose such Agreement sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the *City* under the Agreement until the *City* complies; and/or
  - b. Cancelling, terminating, or suspending the Agreement, in whole or in part.

**Incorporation of Provisions:** The *City* will include the provisions of paragraphs one through five above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The *City* will take action with respect to any subcontract or procurement as the Maine Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the *City* becomes involved in, or is threatened with litigation by a consultant, contractor, or supplier because of such direction, the *City* may request the Maine Department of Transportation to enter into any litigation to protect the interests of the Maine Department of Transportation. In addition, the *City* may request the United States to enter into the litigation to protect the interests of the United States.

**TITLE VI ASSURANCES: APPENDIX E**

---

During the performance of this contract, the **City of Bangor**, for itself, its assignees, and successors in interest (hereinafter referred to as the “**City**”) agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. §4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. §324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. §794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. §6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. §471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. §47123) (prohibits discrimination on the basis of race, color, national origin and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

Date: April 25, 2016

**Item/Subject: ORDER, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – Ohio Street and Fourteenth Street Intersection Improvements, WIN 20895.00**

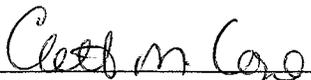
**Responsible Department: Engineering**

**Commentary:** This order would authorize the City Manager to execute a Local Project Agreement with the Maine Department of Transportation for the design of the replacement of traffic signals, installation of pedestrian signals, rehabilitation of sidewalks and sidewalk ramps, and adjustment of the turning radius at the intersection of Ohio Street and Fourteenth Street.

The Maine Department of Transportation has approved funds in an amount not to exceed \$15,000.00. The total State/Federal share of 90% is equal to \$13,500.00, and the Municipality share of 10% is equal to \$1,500.00. As a condition of this funding, the City is required to enter into a Local Project Agreement with the Maine Department of Transportation. This item was reviewed and recommended for approval at the Infrastructure Committee meeting on April 12, 2016.

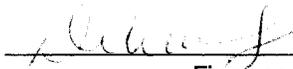
John M. Theriault, City Engineer  
Department Head

**Manager's Comments:**

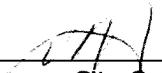
  
City Manager

**Associated Information:** Council Order, Agreement

**Budget Approval:**

  
Finance Director

**Legal Approval:**

  
City Solicitor

**Introduced for**  
 Passage  
 First Reading  
 Referral

Assigned to Councilor Perry



## CITY OF BANGOR

---

**(TITLE.) Order, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – Ohio Street and Fourteenth Street Intersection Improvements, WIN 20895.00**

(TITLE.) ORDER, Authorizing Execution of Agreement for Maine Department of Transportation Local Project – WIN #20895.00, Ohio Street and Fourteenth Street Intersection Improvement Project

ORDERED,

THAT: the City Manager is hereby authorized and directed to execute an agreement with the Maine Department of Transportation for the following:

An Agreement with the Maine Department of Transportation – Ohio Street and Fourteenth Street Intersection Improvements, WIN #20895.00

Copy of the agreement is attached.



AMS ID: \_\_\_\_\_  
CSN: \_\_\_\_\_  
TEDOCS #: \_\_\_\_\_  
PROGRAM: Multimodal (OUC 57000)

**MAINE DEPARTMENT OF TRANSPORTATION**  
**Locally Administered Project Agreement**  
With the  
**City of Bangor**  
Regarding  
**Improvements to the Intersection of Ohio Street and 14<sup>th</sup> Street**

Total Amount: \$15,000	MaineDOT WIN: 20895.00
Federal Share: \$12,000	Federal Project #: _____
State Share: \$1,500	Federal Authorization Date: _____
Bangor Share: \$1,500	Bangor's Vendor ID: VC1000007010
Effective Date: _____	Bangor's DUNS® Number: 07-173-9692
Expiration Date: _____	CFDA #20.205: Highway Planning & Construction

This subaward agreement for a federal-aid project is made between the Maine Department of Transportation, an agency of the State of Maine with headquarters at 24 Child Street in Augusta, Maine ("MaineDOT"), and the City of Bangor, a body corporate and politic with its principal offices at 73 Harlow Street in Bangor, Maine ("the City.")

This Agreement contains the following attachments:

1. Federal Funding Accountability and Transparency Act (one page, signature required);
2. Federal Title VI Assurances (five pages, signature required);
3. Requirements for operation and maintenance of traffic signals and equipment.

WHEREAS, the scope of work set forth in Article 1A below was programmed for the **MaineDOT** 2016-2018 Work Plan by the Bangor Area Comprehensive Transportation System, the designated metropolitan planning organization for the Bangor Urbanized Area, with its administrative offices at 12 Acme Road, Suite 102, in Brewer, Maine ("**BACTS**"); and

WHEREAS, **MaineDOT** accepted the **City's** request to undertake the work as a "locally administered project," based on the **City's** record of delivering such projects successfully.

NOW, in consideration of the previous statements, **MaineDOT** and the **City** ("the **Parties**") agree to the following terms:

**ARTICLE 1 – PROJECT OVERVIEW**

1A. SCOPE OF WORK. **BACTS** programmed preliminary engineering work for improvements to the intersection of Ohio Street and 14th Street, consisting of replacement of traffic signals, installation of pedestrian signals, rehabilitation of sidewalks and sidewalk ramps, and adjustment of the turning radius ("the **Project**." Any change to this scope of work shall require approval from **BACTS** and **MaineDOT** to qualify for federal and state funding.

- 1B. FUNDING. **BACTS** programmed fifteen thousand dollars (**\$15,000**) for the **Project** to be shared as set forth in Article 3, "Financial Provisions." **Project** costs exceeding this amount shall require approval from **BACTS** and **MaineDOT** to qualify for state and federal funding.
- 1C. ROLE OF CITY. The **City** shall assign a full-time employee with certification from **MaineDOT** to manage the **Project** and carry out the **City's** responsibilities. This Local Project Administrator shall follow the guidance in the latest edition of **MaineDOT's** Local Project Administration Manual. If the certified administrator leaves the **City** or ceases to oversee the **Project**, the **City** shall stop work and notify the **MaineDOT** Project Manager. **MaineDOT** will evaluate the situation and determine a course of action.
- The **City** has assigned the following person to serve as Local Project Administrator:  
Ted Trembley, Project Engineer  
City of Bangor, Engineering Department  
Phone: (207) 992-4251  
Email: [ted.trembley@bangormaine.gov](mailto:ted.trembley@bangormaine.gov)
- 1D. ROLE OF MAINEDOT. **MaineDOT** will assign a Project Manager to the **Project** to carry out the State of Maine's responsibilities. This person or a designee will have the authority to request design changes to meet applicable laws and design standards; accept or reject invoices; review construction activities to ensure compliance with contract documents; and take all other action necessary to ensure the proper performance of this Agreement.
- MaineDOT** has assigned the following person to serve as Project Manager:  
Catherine Rand, Project Manager I  
Bureau of Project Development, Multimodal Program  
Phone: (207) 634-3451 / (207) 557-1662  
Email: [Catherine.Rand@maine.gov](mailto:Catherine.Rand@maine.gov)

## **ARTICLE 2 – PROJECT DEVELOPMENT**

---

- 2A. AUTHORIZATION. The **City** shall receive Notice to Proceed from **MaineDOT** before starting reimbursable work or executing any contract for services for the **Project**. This notice shall be issued after **MaineDOT** receives authorization for federal financial participation in the **Project** and executes this Agreement.
- 2B. KICKOFF. The **City** shall hold a project kickoff with **MaineDOT** to go over the scope of work, estimated cost, schedule, and legal requirements before any work begins.
- 2C. PROGRESS REPORTS. The **City** shall provide **MaineDOT** with regular progress reports for the **Project** at intervals established by **MaineDOT's** Project Manager.
- 2D. CONSULTANT SERVICES. The **City** may contract for consultant services to assist with delivery of the **Project**. In doing so, the **City** shall:
1. Use a qualifications-based process, in accordance with federal regulation 23 CFR, Section 172, "Administration of engineering and design-related service contracts."
  2. Obtain the **MaineDOT** Project Manager's approval before awarding a contract.
  3. Incorporate the "Consultant General Conditions for Local Public Agencies" into all contracts for services.

4. Obtain **MaineDOT**'s written approval before modifying a contract. **MaineDOT** shall not reimburse the **City** for work performed under a modification executed without prior approval or work performed before the effective date of a modification.
- 2E. DESIGN WORK. The **City** shall develop all design plans, specifications, estimates and contract documents for the **Project**, in accordance with **MaineDOT**'s Engineering Instructions, Highway Design Guide and Standard Specifications, unless **MaineDOT** approves the use of alternative standards in writing, as follows:
1. The **City** shall submit a preliminary design report, if applicable, and the final plans, specifications and estimate (PS&E) package to **MaineDOT** for review and comment.
  2. The **City** shall address, to **MaineDOT**'s satisfaction, changes requested or concerns expressed before **MaineDOT** will authorize the **City** to advertise for construction bids. Advertising for bids or otherwise proceeding to construction without **MaineDOT**'s written authorization shall render the **Project** ineligible for federal funding.
  3. **MaineDOT**'s acceptance of the PS&E package shall not relieve the Engineer of Record, whether a **City** employee or consultant, of responsibility for the quality of the engineering documents for the **Project**.
- 2F. PUBLIC PARTICIPATION. The **City** shall provide the public and all abutters with opportunity to learn about the **Project** and express concerns, using a public process that is appropriate for the scope of work and acceptable to the **MaineDOT** Project Manager. A public process certification (Letter 16) shall be part of the final PS&E package.
- 2G. ENVIRONMENTAL PROCESS. The **City** shall prepare and submit to **MaineDOT** all required environmental documents, including but not limited to Letter 11 and the National Environmental Policy Act (NEPA) checklist. **MaineDOT** will prepare and submit to the Federal Highway Administration all documentation required under NEPA.
- 2H. PERMITS. The **City** shall obtain all required approvals, permits and licenses for the **Project**. The **City** shall submit copies of all such documents and an environmental certification (Letter 12) to **MaineDOT** with the final PS&E package.
- 2I. UTILITIES. The **City** shall coordinate the **Project** with all utilities and any railroad that may be affected by the **Project**. The **City** shall submit a utility certification (Letter 13) to **MaineDOT** with the final PS&E package, in accordance with federal regulation 23 CFR, Section 635.609, "Authorization." **MaineDOT**'s Utility Accommodation Rules (2014) shall apply to all required utility relocations.
- 2J. RIGHT OF WAY. If permanent or temporary property rights will need to be acquired for the **Project**, **MaineDOT** will carry out the right-of-way process. **MaineDOT**'s Chief Property Officer must approve any alternative procedure in writing. If applicable, the **City** shall dedicate to the **Project** any municipal land required for the **Project**.
- 2K. FORCE ACCOUNT. If the **City** intends to use municipal labor or materials for the **Project**, the **City** shall obtain **MaineDOT**'s written authorization to use a "force account" process before proceeding. If so authorized, the **City** shall comply with federal regulation 23 CFR, sections 635.201 to 635.205: "Force account construction."

- 2L. SOLICITATION OF BIDS. The **City** shall use competitive bidding to hire a construction contractor unless **MaineDOT** approves a “force account” process. Upon **MaineDOT**’s written authorization, the **City** shall advertise for bids, as follows:
1. The **City** shall follow the procedures in **MaineDOT**’s Standard Specifications (November 2014 Edition), Section 102, “Bidding.”
  2. The **City** shall submit bid tabulations to **MaineDOT** for review and shall obtain **MaineDOT**’s written approval before awarding a contract.
- 2M. CONTRACT AWARD. Upon receiving **MaineDOT**’s written approval, the **City** shall award a contract to the lowest responsive and responsible bidder in accordance with **MaineDOT**’s Standard Specifications (November 2014 Edition), Section 103, “Award and Contracting.” The **City** shall administer the contract for the duration of the **Project**.
- 2N. CONSTRUCTION. The **City** shall hold a pre-construction meeting with **MaineDOT**, the contractor, utilities and any other parties involved in the construction work. The **City** shall provide the supervision, inspection and documentation necessary to ensure that the **Project** is completed to **MaineDOT**’s satisfaction in accordance with the final plans, specifications, special provisions and contract provisions, as follows:
1. The **City** shall coordinate materials testing to meet the Minimum Testing Requirements for the **Project**, in compliance with federal regulation 23 CFR, section 637, “Quality Assurance Procedures for Construction.”
  2. The **City** shall submit construction contract modifications to **MaineDOT** for review and comment before they are executed. ***MaineDOT** reserves the right not to reimburse the **City** for work under contract modifications executed without **MaineDOT**’s prior review.*
  3. If applicable, the **City** shall provide **MaineDOT** with a set of revised as-built plans within 90 days of completion of construction.
- 2O. MAINE DOT OVERSIGHT. **MaineDOT** may inspect construction activities and documentation – and test materials used – to ensure compliance with the **Project** specifications and construction contract. **MaineDOT** may reject work or materials out of compliance and withhold reimbursement to the **City** for such work or materials.
- 2P. MAINTENANCE. The **City** shall operate and maintain the traffic signals at the intersection under the terms of Attachment 3, “Operation and Maintenance of Traffic Signals.”

### **ARTICLE 3 – FINANCIAL PROVISIONS**

---

- 3A. MAINE DOT SHARE. **MaineDOT**, using federal and state funding programmed by **BACTS**, will share in the cost of the **Project** at the rate of ninety percent (90%), up to a maximum contribution of thirteen thousand five hundred dollars (**\$13,500.**)
- 3B. LOCAL SHARE. The **City** shall share in all federally eligible **Project** costs at the rate of ten percent (10%), or an estimated one thousand five hundred dollars (**\$1,500.**) Furthermore, the **City** exclusively shall be responsible for expenditures:
1. Incurred before the date of Notice to Proceed;

2. Deemed ineligible for federal financial participation; and
  3. Exceeding the upset limit of this Agreement, as set forth in Article 1B, "Funding."
- 3C. MAINEDOT COSTS. Costs that **MaineDOT** incurs for work on the **Project** shall be paid for out of the **Project**. The **City** shall share in these costs as set forth in Article 3B, "Local Share." **MaineDOT** will reconcile these costs upon completion of the **Project** and deduct the **City's** share from the final invoice payment.
- 3D. REIMBURSEMENT. **MaineDOT** will reimburse the **City** for federally eligible costs incurred on the **Project** at the rate in Article 3A, "MaineDOT Share." The **City** shall bill **MaineDOT** no more than monthly but no less than quarterly, subject to these conditions:
1. The **City** shall submit Invoices on letterhead and reference WIN 20895.00.
  2. **MaineDOT** will make no payment unless the **City** has incurred a cost and submitted to **MaineDOT** the receipted invoice and proof of payment, including a breakdown of the charges incurred in sufficient detail to satisfy the **MaineDOT** Project Manager.
  3. Each invoice must include a progress report in accordance with Article 2C.
  4. Each invoice must show **MaineDOT's** and the **City's** shares of **Project** costs, including a running total of all costs incurred to date.
  5. The **City** must certify that amounts claimed are correct and not claimed previously.
  6. Payment of the final invoice shall be contingent upon a final inspection of the completed **Project** to determine the acceptability of the work.
- 3E. REPAYMENT. If the **City** withdraws from the **Project** without concurrence from **MaineDOT**, leading to termination of this Agreement for cause under Article 4, "Termination," the **City** shall refund all payments from **MaineDOT** toward the **Project** and reimburse **MaineDOT** for costs incurred for work on the **Project**. **MaineDOT** shall make available to **BACTS** all refunded federal and state money upon closeout of the **Project**.
- 3F. SET-OFF. **MaineDOT** may exercise all of its common law, equitable and statutory rights of set-off to recover payment to the **City** for work subsequently deemed to be ineligible for federal-aid funding. These rights will include, but will not be limited to, **MaineDOT's** option to withhold money owed to the **City** under this Agreement and any other agreement with **MaineDOT** or any other agency of the State of Maine, including any contract starting before the effective date of this Agreement.
- 3G. REMAINING FUNDS. Any federal and state funds remaining in the **Project** upon payment of the final invoice for the **Project** shall be made available to **BACTS**.

#### **ARTICLE 4 – TERMINATION**

---

- 4A. FOR CAUSE. **MaineDOT** will have just cause to terminate this Agreement in the event of default by the **City**, as defined in Article 4B below. **MaineDOT** will afford the **City** a cure period of fourteen (14) calendar days, effective on the **City's** receipt of Notice of Default. If the **City** fails to address all defaults within this cure period, **MaineDOT** may terminate this Agreement for cause, with these conditions:

1. The **City** and all contracted parties shall stop work immediately – except for work required to protect public health and safety – and shall abide by the terms of Article 5 below regarding the treatment of records for the terminated **Project**.
2. If termination is the result of the **City**'s failure to correct any occurrence of default, **MaineDOT** shall recover from the **City** reimbursements made and **Project** costs incurred in accordance with Article 3E, "Repayment."
3. **MaineDOT** will make available to **BACTS** all federal and state funds remaining in the terminated **Project**, as well as all federal and state funds recovered from the **City**, in accordance with Article 3E, "Repayment."

4B. DEFAULT. **MaineDOT** shall send the **City** a Notice of Default if the **City**:

- Withdraws from the **Project** without written concurrence from **MaineDOT**; or
- Fails to provide matching funds as outlined in Article 3B, "Local Share"; or
- Makes inadequate progress within 18 months of execution of this Agreement; or
- Takes any action that renders the **Project** ineligible for federal-aid funding; or
- Uses **Project** funds for a purpose not authorized by this Agreement; or
- Misrepresents or falsifies of any claim for reimbursement; or
- Fails to meet standards of performance outlined in this Agreement.

4C. FOR CONVENIENCE. The **Parties** may terminate this Agreement for convenience by mutual consent for any reason not defined as "default," as follows:

1. In case of Termination for Convenience, **MaineDOT** will reimburse the **City** for federally eligible work performed until the effective termination date. The **City**'s share of **MaineDOT**'s costs for work on the **Project** shall be deducted from amounts due to the **City** in accordance with Article 3C, "MaineDOT Costs."
2. All **Project** records shall be handled in accordance with the terms of Article 5 below.
3. **MaineDOT** will make available to **BACTS** all federal and state funds remaining in the terminated **Project**, in accordance with Article 3G, "Remaining Funds."

## **ARTICLE 5 – RECORDS & AUDIT**

---

- 5A. **Project** records are printed or electronic plans, specifications, contracts, reports, notes, or other documents prepared by or for the **City**. The **City** shall retain all such records for at least **five (5) years** from the date of **MaineDOT**'s acceptance of the final invoice for the **Project**. If any litigation, claim, negotiation or audit has begun before the end of this five (5) year period, all such records shall be kept at least until all action and resolution of all issues arising from it are complete. After completion or termination of the **Project**, all such records shall be provided to **MaineDOT** within thirty (30) days of receipt of any request.

- 5B. The **City** and any consultant or contractor working on its behalf shall allow authorized representatives of the Federal Government and the State of Maine to inspect and audit **Project** records at reasonable times. Copies shall be furnished at no cost.
- 5C. Audits shall be performed in accordance with federal regulation 2 CFR, Section 200, Subpart F - "Audit Requirements."

## **ARTICLE 6. GENERAL PROVISIONS**

---

- 6A. GOVERNING LAW. This Agreement is made and shall be construed under the laws of the State of Maine. Since this Agreement covers a **Project** employing federal-aid funds, all activities under this document shall be performed in accordance with applicable federal regulations, including but not limited to 23 CFR, "Highways"; 49 CFR, "Transportation"; and 2 CFR, Section 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."
- 6B. INDEMNIFICATION. To the extent allowed by law, the **City** shall indemnify, defend and hold harmless **MaineDOT**, its officers, agents and employees from all claims, suits or liabilities arising from negligent or wrongful act, error or omission by the **City**, its officers, employees, agents, consultants or contractors. Nothing in this article shall waive any defense, immunity or limitation of liability that may be available to either party under the Maine Tort Claims Act (14 M.R.S. Section 8101 et seq.) or other privileges or immunities provided by law. *Any other provision of this Agreement to the contrary notwithstanding, this provision shall survive the termination or expiration of this Agreement.*
- 6C. CONFIDENTIALITY. The **City** shall protect the confidentiality of right-of-way negotiations, property appraisals, and engineering estimates of the cost to construct the **Project**, in accordance with the provisions of Title 23 of the Maine Revised Statutes Annotated (MRSA), Section 63, "Confidentiality of records ... ."
- 6D. INDEPENDENT CAPACITY. The **City**, its employees, agents, representatives, consultants and contractors *shall not* act as officers, employees or agents of **MaineDOT**.
- 6E. EQUAL EMPLOYMENT OPPORTUNITY. The **City** shall adhere to all EEO requirements in the administration of the **Project**, as follows:
1. The **City** shall not discriminate against any employee or applicant for employment *relating specifically to work under this Agreement* because of race, color, religious creed, sex, national origin, ancestry, age, sexual orientation or disability unless related to a bona fide occupational qualification. The **City** shall take affirmative action to ensure that all such applicants are employed and that all such employees are treated regardless of their race, color, religious creed, sex, national origin, ancestry, age or disability during any period of employment under this Agreement.
  2. In all solicitations or advertising for employees relating to work done under this Agreement, the **City** shall state that all qualified applicants shall receive consideration for employment regardless of race, color, religious creed, sex, national origin, ancestry, age, sexual orientation or disability.

3. The **City** shall include the previous EEO provisions under this Article in any contract for services or work for the **Project** so that such provisions are binding upon each consultant and contractor – with the exception of any contract for the purchase of standard commercial supplies or raw materials. To the maximum extent feasible, the **City** and its consultants and contractors shall list all suitable employment openings with the Maine Job Service.
- 6F. FLOW DOWN. Contracts between the **City** and all third parties shall contain or incorporate by reference applicable provisions of this Agreement.
- 6G. BINDING EFFECT. The **Parties** shall be bound by the terms of this Agreement, which shall apply to its executors, their successors, administrators and legal representatives.
- 6H. ENTIRE AGREEMENT. This document represents the entire Agreement between the **Parties**. Neither **MaineDOT** nor the **City** shall be bound by any statement, correspondence, agreement or representation not expressly contained in this Agreement.

## **ARTICLE 7. DEBARMENT**

---

- 7A. The **City** certifies to the best of its knowledge and belief that it and its officers, agents and employees associated with the **Project** are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by the Federal Government. If the **City** cannot certify to this statement, it shall attach an explanation to this Agreement. For the term of this Agreement, the **City** shall notify **MaineDOT** promptly if it or any officer, agent or employee associated with the **Project** is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by the Federal Government.
- 7B. The **City** agrees that it shall not hire an outside entity that is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by the Federal Government.
- 7C. The **City** agrees that if it contracts with an outside entity, that entity and its principals shall certify that they:
  1. Have not within a 3-year period preceding the date of such contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with the following: a.) obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; b.) violating federal or state antitrust statutes; and c.) committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
  2. Are not currently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph 1 of this section; and
  3. Have not within a 3-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

**ARTICLE 8. CONFLICT OF INTEREST**

---

The **City** shall avoid contracting with an outside entity that has a financial or other interest in the **Project** or in its outcome, other than the performance of the contract. This prohibition applies to: a.) any agreement with, or other interest involving, third parties having an interest in the outcome of the **Project** that is the subject to the contract; b.) any agreement providing incentives or guarantees of future work on the **Project** or related matters; and c.) any interest in real property acquired for the **Project** unless such interest is disclosed to **MaineDOT** before the person or entity entered into the contract.

**ARTICLE 9. EXPIRATION**

---

This Agreement shall expire upon satisfactory completion of the **Project** or **five (5) years** from the final day of the month in which this Agreement took effect, whichever occurs first, except as follows:

- Article 2P, "Maintenance," shall be enforced upon completion of the **Project** and after expiration of this Agreement in accordance with the terms of Attachment 3 to this Agreement.
- Article 5, "Records & Audit," shall remain effective for at least five (5) years from completion of the **Project**.
- Article 6B, "Indemnification," shall survive the termination or expiration of this Agreement. It shall remain in place until terminated by the **Parties**.
- Article 6C, "Confidentiality," shall remain in effect until negated by law.

**ARTICLE 10. AGREEMENT APPROVAL**

---

The undersigned municipal representative assures that the City Council of Bangor, Maine has approved the **City's** entry into this Agreement, has appropriated or authorized use of required matching funds, and has authorized the representative to sign this Agreement.

IN WITNESS WHEREOF, the **Parties** have executed this Agreement effective on the date last signed below.

**City of Bangor**

**Maine Department of Transportation**

By: \_\_\_\_\_  
**Catherine M. Conlow, City Manager**

By: \_\_\_\_\_  
**William A. Pulver, P.E., Director,  
Bureau of Project Development**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

*I certify that the foregoing signature is true and accurate. I further certify – pursuant to 10 M.R.S.A. §9407 and §9502 – that the signature, if electronic: (a) is intended to have the same force as my manual signature; (b) is unique to me; (c) is capable of verification; and (d) is under my control.*

## Federal Funding Accountability and Transparency Act

The **City of Bangor, Maine** and its contractors may be subject to the provisions of the Federal Funding Accountability and Transparency Act of 2006 as amended and any regulations, policies, procedures and guidance documents adopted pursuant thereto or in connection therewith.

If the Federal portion of the **Project** exceeds \$25,000, an authorized representative from the **City** shall sign this document under (B) below and return it with the **Project** Agreement. Additionally, the **City** shall provide the following information, *if applicable*:

A) The total compensation and names of the top five officers if:

- More than 80% of the **City**'s annual gross revenues are from the U.S. Federal Government; and
- Those revenues are greater than \$25 million annually; and
- Compensation information is not already available through reporting to the U.S. Securities and Exchange Commission (SEC).

B) Legal name and DUNS<sup>®</sup> number on file with the Central Contractor Registration (CCR):

**City of Bangor, Maine**

07-173-9692

Sign and Print Legal CCR Name

DUNS<sup>®</sup> Number

Authorized Representative: \_\_\_\_\_

**Catherine M. Conlow, City Manager**

**U.S. Department of Transportation (U.S. DOT)**  
Federal Highway Administration – Standard Title VI / Nondiscrimination Assurances

---

**DOT Order No. 1050.2A**

The **City of Bangor** (the "Recipient") **AGREES THAT**, as a condition of receiving Federal financial assistance from the U.S. Department of Transportation (U.S. DOT) through the Federal Highway Administration (FHWA), it is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory citations hereinafter are referred to as the "Acts" and "Regulations," respectively.

**General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from the U.S. DOT, including the FHWA.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Nondiscrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

**Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its federally assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*The City of Bangor, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.*

- 3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or Agreement subject to the Acts and the Regulations.**
4. If applicable, the Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. If applicable, the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Recipient also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA. You must keep records, reports, and submit the material for review upon request to the FHWA, or their designees in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation. This ASSURANCE is binding on the Recipient, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in it programs. The person signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

DATED \_\_\_\_\_

By \_\_\_\_\_  
**Catherine M. Conlow, City Manager**  
**City of Bangor**

Encl.: Appendices A and E

**TITLE VI ASSURANCES: APPENDIX A**

---

During the performance of this contract, the *City*, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The *City* will comply with the Acts and the Regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement, as set forth in Appendix E to these Assurances.
2. **Nondiscrimination:** The *City*, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of consultants and contractors, including procurements of materials and leases of equipment. The *City* will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E to these Assurances, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the *City* for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential consultant or contractor will be notified by the *City* of the *City*'s obligations under this Agreement and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, as set forth in Appendix E to these Assurances.
4. **Information and Reports:** The *City* will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Maine Department of Transportation or the Federal Highway Administration, to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of the *City* is in the exclusive possession of another who fails or refuses to furnish the information, the *City* will so certify to the Maine Department of Transportation or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for noncompliance:** In the event of the *City*'s noncompliance with the Non-discrimination provisions of this Agreement, MaineDOT will impose such Agreement sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the *City* under the Agreement until the *City* complies; and/or
  - b. Cancelling, terminating, or suspending the Agreement, in whole or in part.

**Incorporation of Provisions:** The *City* will include the provisions of paragraphs one through five above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The *City* will take action with respect to any subcontract or procurement as the Maine Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the *City* becomes involved in, or is threatened with litigation by a consultant, contractor, or supplier because of such direction, the *City* may request the Maine Department of Transportation to enter into any litigation to protect the interests of the Maine Department of Transportation. In addition, the *City* may request the United States to enter into the litigation to protect the interests of the United States.

**ATTACHMENT 2**

**TITLE VI ASSURANCES: APPENDIX E**

---

During the performance of this contract, the **City of Bangor**, for itself, its assignees, and successors in interest (hereinafter referred to as the “**City**”) agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. §4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. §324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. §794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. §6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. §471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. §47123) (prohibits discrimination on the basis of race, color, national origin and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

## OPERATION & MAINTANCE OF TRAFFIC SIGNALS

- A. The **City of Bangor** (“the **City**”) agrees to operate and maintain all traffic signals and related equipment installed pursuant to this Agreement to function as designed and installed as part of the above-referenced Locally Administered Project, WIN 020895.00, unless approved otherwise as hereinafter provided or as necessary as follows:
1. All malfunctions and deficiencies in the traffic signal or any equipment appurtenant thereto shall be repaired or corrected expeditiously in accordance with the Institute of Transportation Engineer’s (ITE) “Traffic Signal Installation and Maintenance Manual.” Any failure to correct the traffic **signal to function as designed could, upon written notification from the MaineDOT**, result in the **MaineDOT** making all necessary repairs at the **City**’s expense.
  2. The visibility of the traffic signal shall be preserved and maintained at all times by removing any visual impairment thereto.
  3. No change in operation or modification to the traffic signal or any equipment appurtenant thereto shall be made without the express written approval of the **MaineDOT**.
  4. The **MaineDOT** shall be notified in writing prior to any removal or replacement of the traffic signal or any equipment and appurtenant thereto. Upon removal, such traffic signal or equipment so removed shall be disposed of as deemed appropriate by mutual agreement of the MaineDOT and Municipality without any cost to the **MaineDOT**, unless agreed otherwise in writing.
- B. The **City** agrees to be responsible for the electrical service for the traffic signals and agrees to execute any necessary documentation required to establish such service and provide any local permits necessary for the installation of such service.
- C. The **City** agrees to maintain all pavement markings (including stop bars, lane use arrows and all striping necessary to delineate the turning lane) and all traffic control signs as furnished under the project.
- D. The **City** agrees to allow the contractor for the project to control all traffic within all designated work areas at such times and in such a manner necessary to permit construction of the project and the installation of the traffic signal as specified in the traffic control plan approved by the **MaineDOT**.

Date: April 25, 2016

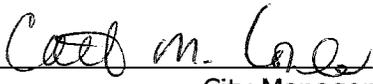
**Item/Subject:** ORDER, Authorizing the City Manager to execute an amendment to the lease and concession agreement between the City of Bangor and Garedc, Inc., d/b/a The Grasshopper Shop, for rental of Room #203 within the Domestic Terminal at Bangor International Airport (BGR).

**Responsible Department:** Airport

**Commentary:** This Order authorizes an amendment to the current lease and concession agreement between the City of Bangor and Garedc, Inc, d/b/a The Grasshopper Shop. The Grasshopper Shop operates a retail concession in the domestic terminal at Bangor International Airport. They offer Maine specific items to travelers. Specifically, this amendment adjusts the rental schedule to match the rental schedule of the other gift shop concession at Bangor International Airport. This lease agreement will be in final form as approved by City Legal. This item was reviewed and approved by the Airport Committee at its meeting on April 12, 2016.

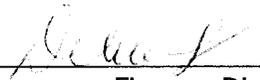
Tony Caruso  
Department Head

**Manager's Comments:**

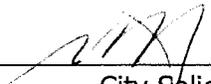
  
City Manager

**Associated Information:**

**Budget Approval:**

  
Finance Director

**Legal Approval:**

  
City Solicitor

Introduced for  
 **Passage**  
 **First Reading**  
 **Referral**

Assigned to Councilor Baldacci



## CITY OF BANGOR

---

**(TITLE.) ORDER,** Authorizing the City Manager to execute an amendment to the lease and concession agreement between the City of Bangor and Garedc, Inc., d/b/a The Grasshopper Shop, for rental of Room #203 within the Domestic Terminal at Bangor International Airport (BGR).

WHEREAS, The City of Bangor, Maine is the owner of an airport located in Bangor, County of Penobscot, State of Maine, commonly known as Bangor International Airport; and

WHEREAS, The Grasshopper Shop operates a retail concession in the domestic terminal at Bangor International Airport and offers Maine specific items to travelers; and

WHEREAS, This amendment adjusts the rental schedule, which will match the rental schedule of the other gift shop concession at Bangor International Airport; and

WHEREAS, this leased space will be used exclusively for gift shop purposes by The Grasshopper Shop.

NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BANGOR,

That Catherine M. Conlow, City Manager, is hereby authorized on behalf of the City of Bangor to execute the amendment to the lease and concession agreement between the City of Bangor and Garedc, Inc., d/b/a The Grasshopper Shop, for the adjustment to the rental schedule. The rent is based on a percentage of gross sales due each twelve month period. The lease agreement shall be in final form as approved by the City Solicitor or Assistant City Solicitor.

**COUNCIL ACTION**

---

**Item No. 16-166**

**Date:** April 25, 2016

**Item/Subject:** Accepting a \$25,000 Grant from Penobscot County Emergency Management Agency for Improvements at the Fire Training Facility

**Responsible Department:** Fire

---

**Commentary:** This will accept a \$25,000 grant from Penobscot County Emergency Management Agency. The grant will fund the installation of an 8,000 gallon underground water tank. This tank will replace a 6,000 gallon tank that is leaking. The fire department uses this tank to conduct certification testing on fire truck pumps. This grant does not require any local match.

This item was reviewed and recommended for approval by the Finance Committee on April 25, 2016.

---

Department Head

---

**Manager's Comments:**

---

City Manager

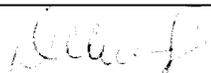
---

**Associated Information:**

---

**Budget Approval:**

---

  
Finance Director

---

**Legal Approval:**

---

  
City Solicitor

---

**Introduced for**

- Passage**
- First Reading**
- Referral**

Assigned to Councilor Sprague



## CITY OF BANGOR

---

**(TITLE.) Order, Accepting a \$25,000 Grant from Penobscot County Emergency Management Agency for Improvements at the Fire Training Facility**

**BY THE CITY COUNCIL OF THE CITY OF BANGOR:**

**BE IT RESOLVED,** that a grant from the Penobscot County Emergency Management Agency in the amount of \$25,000 is hereby accepted and appropriated to fund improvements to the fire training center.

**COUNCIL ACTION**

---

**Item No. 16-167**

**Date:** April 25, 2016

**Item/Subject:** **ORDER**, Amending the Schedule of Fees - Clerk - Taxicab and Livery Fees

**Responsible Department:** City Clerk

---

**Commentary:** This proposed amendment to the fee schedule would increase the fees charged for taxicab driver's licenses and taxicab vehicle licenses, bringing them into compliance with the recent amendments to the taxicab ordinance.

If approved this amendment will increase the fee charged for a taxicab driver's license by \$25, which is proposed to cover the cost of doing a background check every year, rather than just the first time a taxicab driver receives a license. The new fee will be \$82 for a first-time applicant and \$57 for a renewal applicant.

The fee for licensing taxicab vehicles is currently \$86, covering the cost of inspection of the cab. This Order would not increase the fee, but would just change the schedule to reflect that taxicabs are now licensed under an overall taxicab business license for a cab company, rather than each cab being licensed separately.

Finally, under the new ordinance, the above fees will apply to livery vehicles and drivers as well. Livery vehicles are similar in most respects to taxicabs, but charge by flat fee or by the minute rather than according to the per-mile rate calculated on a taximeter. The recent amendments to the taxicab ordinance caused livery vehicles and drivers to be regulated like taxicabs, so there is a similar need for a fee to cover background check and inspection costs. This item was reviewed and recommended for approval by the Government Operations Committee at its April 4, 2016 meeting

---

Department Head

---

**Manager's Comments:**

---

  
City Manager

---

**Associated Information:**

---

**Budget Approval:**

---

  
Finance Director

---

**Legal Approval:**

---

  
City Solicitor

---

**Introduced for**

- Passage**
- First Reading**
- Referral**

Assigned to Councilor Durgin



# CITY OF BANGOR

**ORDER**, Amending the Schedule of Fees - Clerk - Taxicab and Livery Fees

BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BANGOR, THAT

The Schedule of Fees, as authorized under Chapter 109 of the Code of the City of Bangor, is hereby amended as follows:

...

E. City Clerk

(1) Business Licensing

...

Taxi Cab or Livery Business License	\$ 86 per vehicle	§§ 278-43; 85-4
Taxi Cab or Livery Operator Driver's License	\$ 32	§§ 278-4; 85-4
<u>New/Late</u>	<u>\$82</u>	<u>§ 278-7</u>
<u>Renewal</u>	<u>\$57</u>	<u>§ 278-7</u>

...

Additions are underlined.

The seal of the City of Bangor is a circular emblem with an ornate, gold-colored border. The border contains the text "CITY OF BANGOR" at the top and "INCORPORATED, FEB. 12, 1842" at the bottom. The central scene depicts a large evergreen tree in the foreground, a body of water with a bridge in the middle ground, and a rising sun with rays in the background. A wooden stump and a wheel are visible in the lower foreground.

**REFERRALS TO COMMITTEES  
& FIRST READINGS**

**COUNCIL ACTION**

**Item No. 16-168**

**Date: April 25, 2016**

**Item/Subject** Ordinance, Amending Land Development Code – Contract Zone Change – 656 State Street and the State Hospital Drive (Tax Map R63-008) from a Low Density Residential District to a Contract Government and Institutional Service District.

**Responsible Department:** Planning Division

**Commentary:** The applicant, Emera Maine, is requesting a contract zone change for part of a parcel of land (1.81 acres) located at 656 State Street (Tax Map R63-008) from a Low Density Residential District to a Contract Government and Institutional Service District. The property to be rezoned is vacant field on the grounds of Dorthea Dix Psychiatric Center. The applicant seeks to build an electrical substation.

The contract conditions will allow only a small structure to be constructed on the rezoned land (5,519 Square Feet) and not exceed 35 feet in height. The City previously had concerns that a large intuitional structure would be constructed next to the low density residential neighborhood.

/s/ Tanya L. Emery  
Dept. Head

**Manager's Comments:**

For Referral to Planning Board Meeting of May 3, 2016 at 7:00 p.m.

Carol M. Gale  
City Manager

**Associated Information:**

**Budget Approval:**

\_\_\_\_\_  
Finance Director

**Legal Approval:**

AAJ  
City Solicitor

**Introduced for**

- Passage
- First Reading
- Referral to Planning Board Meeting of May 3, 2016, 7:00 p.m

Assigned to Councilor Graham



## CITY OF BANGOR

(TITLE.) Ordinance, Amending Land Development Code – Contract Zone Change – 656 State Street (Tax Map R63-008) from a Low Density Residential District to a Contract Government and Institutional Service District.

*Be it ordained by the City Council of the City of Bangor, as follows:*

THAT the zoning boundary lines as established by the Zoning Map of the City of Bangor dated October 28, 1991, as amended, be hereby further amended as follows:

By changing part of a parcel of land located at 656 State street and the State Hospital drive (Tax Map No. R63, Parcel No. 008) from a Low Density Residential District to a Contract Government and Institutional Service District. Said part of a parcel of land containing approximately 1.81 acres and being more particularly indicated on the map attached hereto and made a part hereof.

PROVIDED, HOWEVER THAT, in addition to the mandatory conditions imposed by Chapter 165-7 of the Ordinances of the City of Bangor, said change of zone is granted subject to the following conditions:

1. The use and/or operation of the subject premises shall be subject to the following limitations and/or restrictions:
  - A. Maximum Height of Buildings to be no greater than 35 feet.
  - B. Maximum Lot Coverage (of buildings) 7%.
2. Execution by those parties with an interest in the affected property of an agreement providing for the implementation and enforcement of all the terms and conditions set forth above and the recording of said executed agreement in the Penobscot County Registry of Deeds by the property owner, a copy of said agreement being on file in the office of the City Clerk and incorporated herein by reference. In the event that said agreement is not so executed within ninety (90) days from the date of passage hereof, this Ordinance shall become null and void.

7/1/2012

APPLICATION FOR LAND DEVELOPMENT CODE AND MAP AMENDMENT

TO: THE CITY COUNCIL AND  
THE PLANNING BOARD OF BANGOR, MAINE:

DATE: April 1, 2016

- 1. I(WE) Emera Maine
- 2. of PO Box 932 Bangor, ME 207-973-2608  
Address City or Post Office Telephone

hereby petition to amend the Land Development Code of the City of Bangor, Maine by reclassifying from LDR district to the G&SI district for the property outlined in red on the maps attached hereto, which are part of this application, and described as follows:

- 3. ADDRESS OF PROPERTY (if any) NA  
Total Area (acres or square feet) \_\_\_\_\_
- 4. PROPERTY LOCATION (General location): Proposed substation sited in an existing field along Hospital Drive opposite the Maine Veterans Home in Bangor.
- 5. LEGAL DESCRIPTION OF PROPERTY - Assessors Map No. R63 Parcel Lots 8 and 8B
- 6. EXISTING USE: Undeveloped
- 7. PROPOSED USE: Substation
- 8. NAME AND ADDRESS OF OWNER OF RECORD: Name  
Ronald McDonald House Charities of Maine State of Maine, Dept of Financial & Administrative Services  
250 Brackett Street Bureau of General Services  
Portland, ME 04102 77 State House Station  
Attn: Robin Chibroski, Executive Director Augusta, ME 04333-0077
- 9. NAME AND ADDRESS OF CONTRACT OWNER (if such): Emera Maine
- 10. SIGNATURE OF OWNER OR CONTRACT OWNER: [Signature]  
ROBERT L. PLATT
- 11. REPRESENTATIVE OF APPLICANT: Name Gil A. Paquette  
(if applicable)

Address VHB 500 Southborough Drive, South Portland, ME 04106

12. ATTACH ANY CONDITIONS PROPOSED FOR A CONTRACT ZONE REQUEST.

RETURN FORM & DUPLICATE TO PLANNING DIVISION, CITY HALL, BANGOR, ME.

<u>Application fee</u>	<u>Processing</u>	<u>Advertising</u>	<u>Total</u>
Zone Change (1/2 acre or less)	\$575.00	\$410.00*	\$ 985.00
Zone Change (in excess of 1/2 acre)	\$920.00	\$410.00*	\$1,330.00
Contract Zone Change - 5 conditions or less	\$1,377.00	\$509.00*	\$1,886.00
More than 5 conditions or 50 words	\$1,900.00	\$509.00**	\$To be determined

\*Two Ads Required \*\* Advertising costs above this amount to be paid for by applicant.

PLEASE READ PROCESSING PROCEDURE ON REVERSE SIDE

RECEIVED

APR - 4 2016

C & ED and Planning

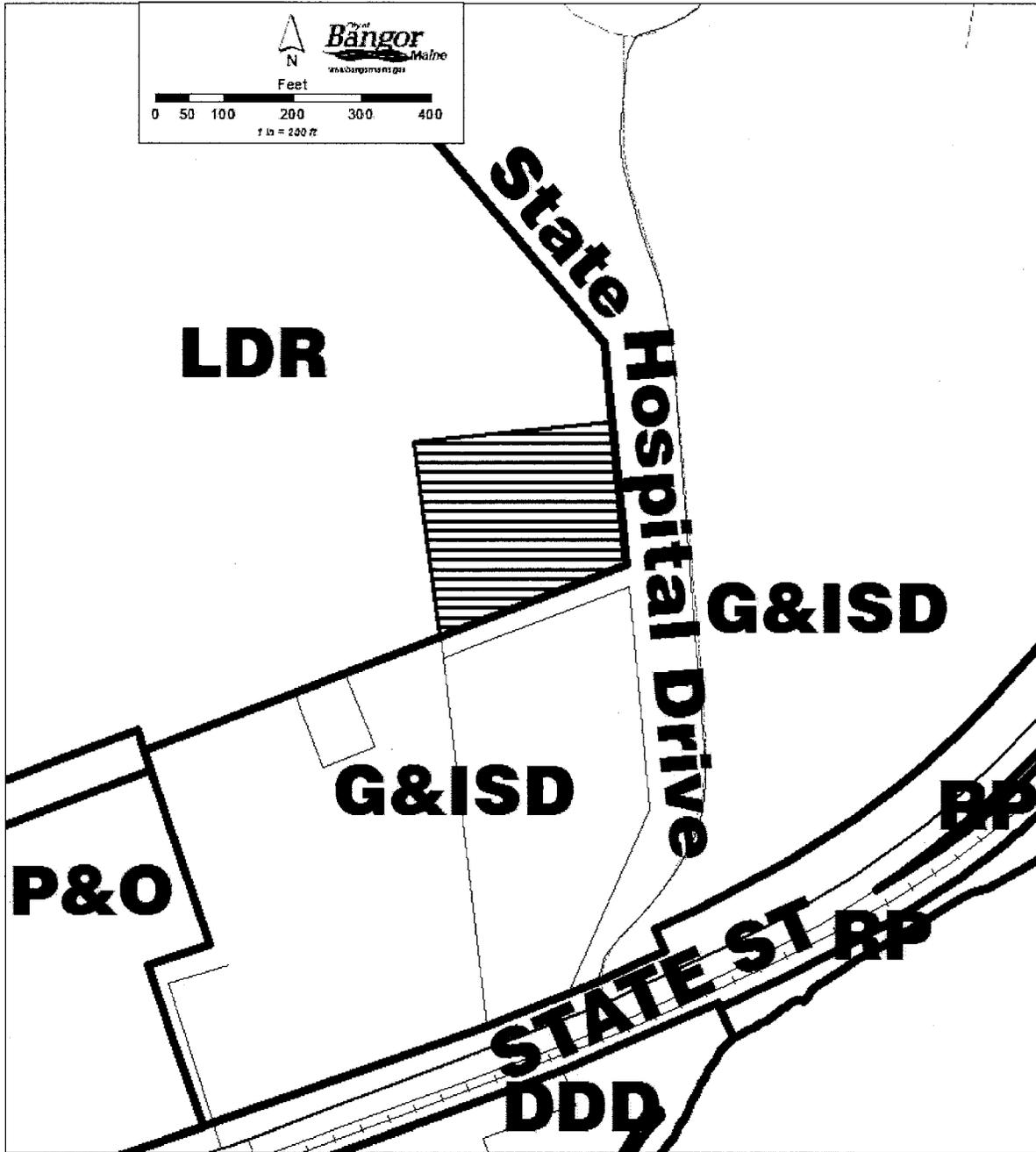
EXHIBIT A

CONDITIONS

EMERA MAINE REQUEST FOR LAND DEVELOPMENT CODE AND MAP AMENDMENT

CONTRACT ZONE CHANGE

1. Maximum Height of Buildings to be no greater than 35 feet
2. Maximum Lot Coverage (of buildings) 7%



 **LDR to  
G&ISD Contract**

**COUNCIL ACTION**

**Item No. 16-169**

**Date:** April 25, 2016

**Item/Subject:** RESOLVE, Accepting and Appropriating a \$51,000 Grant From the Maine Fire Service Institute to Fund Improvements to the Fire Training Center

**Responsible Department:** Fire

**Commentary:** This Resolve will accept and appropriate \$51,000 in Grant Funding from the Maine Fire Service Institute to make improvements at the Fire Department Training Center located at 201 Odlin Road. This funding will be utilized for the purpose of upgrading the Burn Building (\$40,000), the Classroom (\$6,000) and the Bathroom Building (\$5,000). The grant does not require any local match.

This item was reviewed and recommended for approval by the Finance Committee on April 11, 2016.

\_\_\_\_\_  
Department Head

**Manager's Comments:**

\_\_\_\_\_  
*Cecilia Cole*  
City Manager

**Associated Information:**

**Budget Approval:**

\_\_\_\_\_  
*[Signature]*  
Finance Director

**Legal Approval:**

\_\_\_\_\_  
*[Signature]*  
City Solicitor

**Introduced for**

- Passage
- First Reading
- Referral

Assigned to Councilor Durgin



## CITY OF BANGOR

---

**(TITLE.) Resolve, Accepting and Appropriating a \$51,000 Grant From the Maine Fire Service Institute to Fund Improvements to the Fire Training Center**

**BY THE CITY COUNCIL OF THE CITY OF BANGOR:**

**BE IT RESOLVED,** that a grant from the Maine Fire Service Institute in the amount of \$51,000 is hereby accepted and appropriated to fund improvements to the fire training center.



**UNFINISHED  
BUSINESS**

**COUNCIL ACTION**

**Item No. 16-104**

**Date: March 14, 2016**

**Item/Subject** <sup>ORDINANCE</sup> Amending Land Development Code – Zone Change – 262 Garland Street (Tax Map 053-218) from an Urban Residence One District to an Urban Residence Two District.

**Responsible Department:** Planning Division

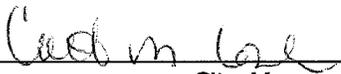
**Commentary:**

The applicant, MWC Properties LLC, Jeffrey Mitchell, is requesting a zone change for a parcel of land located at 262 Garland Street (Tax Map 053-218) from a Urban Residence One District to an Urban Residence Two District. The URD2 zone will allow them to have up to a four dwelling units in one building on the property.

\_\_\_\_\_  
Dept. Head

**Manager's Comments:**

For Referral to Planning Board Meeting of March 15, 2016 at 7:00 p.m.

  
\_\_\_\_\_  
City Manager

**Associated Information:**

**Budget Approval:**

\_\_\_\_\_  
Finance Director

**Legal Approval:**

  
\_\_\_\_\_  
City Solicitor

**Introduced for**

     Passage

  X   First Reading

  X   Referral to Planning Board Meeting of March 15, 2016, 7:00 p.m.

**Page 1 of 1**

Assigned to Councilor Graham



## CITY OF BANGOR

---

(TITLE.) Ordinance, Amending Land Development Code – Zone Change – 262  
Garland Street (Tax Maps 053-218) from a Urban Residence One District to Urban Residence Two  
District.

*Be it ordained by the City Council of the City of Bangor, as follows:*

THAT the zoning boundary lines as established by the Zoning Map of the City of Bangor dated October 28, 1991, as amended, be hereby further amended as follows:

By changing a parcel of land located at 262 Garland Street (Tax Map No. 53, Parcel No. 218) from an Urban Residence One District to an Urban Residence Two District. Said parcel of land containing approximately 14,94 sq. ft. and being more particularly indicated on the map attached hereto and made a part hereof.

## **MEMORANDUM**

**DATE:** April 20, 2016  
**TO:** The Honorable City Council  
**FROM:** David G. Gould, Planning Officer  
**SUBJECT:** Amending Zoning Ordinance  
262 Garland Street – Urban Residence One District (URD-1)  
to Urban Residence Two District (URD-2) – Council  
Ordinance 16-104

Please be advised that the Planning Board at its meeting on April 19, 2016, held a Public Hearing on the above zone change request.

Vice-Chairman Boothby opened the Public Hearing and asked the applicant or their representative to make a brief presentation of their application.

Mr. Freeman Grant, a representative of the Gordon A. Connor Trust indicated the buyer (MWC Properties, LLC) who had filed the application for rezoning did not want to continue further, due to delays in the process. Mr. Grant noted the property had been in the family almost since it was built. The property had multiple structures on it and had a few rental units in each building. When Mr. Gordon Connor passed away the property was put in a trust such that his son William Conner could reside there. It was William Connor's desire not to provide rental units, so as the Zoning rules changed the units ceased to be grandfathered in a single family district. Mr. Grant noted several buyers were interested in the property if they could rent units, but were not interested as a single family home. Mr. Grant noted that the trust does not have the resources or interest to remodel the building itself, which is needed to make it a more viable property today.

Mrs. Margret Gardner of 180 Fruit Street indicated she was opposed to changing the zoning of the property and was concerned that the applicant was not present to address the Board. She noted this was her third trip to City Hall in what has been a very confusing process. She indicated increasing traffic congestion on Fruit Street and on-street parking. She was very concerned as to what is happening in Bangor's neighborhoods. Turning houses into multi-family apartments is adding to the burden on police and other City resources.

Planning Officer Gould advised the Board that the applicant, MWC Properties filed an application for rezoning. At the first scheduled public hearing there was no quorum of the Board. The Board continued the hearing and the next time the applicant was not able to attend. The applicant decided not to withdraw their application, but allowed the owners to discuss rezoning with the Board.

Mr. Gould found Mr. Grant's history of the project to be correct. At the time the building was built there were similar buildings with multiple rental units, such as on Otis Street. While the City Zoning Laws stopped allowing new multi-unit properties in the 1970's many of the older ones still exist as nonconformities. The last time the City's Land Use Policy documents indicated uses other than single family uses was the 1979 Land Use Map which reflected the commercial uses associated with this property. The property is just over 12,000 SF which would allow 4 units.

Member Williams asked if the change in the nonconformities language would apply to this situation.

Mr. Gould noted that while the Council did amend the Land Development Code to allow for seven years before a grandfathered use expires the units in this structure were abandoned much earlier.

Member Williams made a motion to recommend the Council adopt C.O. #16-104. Member McCarthy seconded the Motion.

The Board voted two in favor and four opposed, resulting in a recommendation to not approve amending the Zoning Ordinance for 262 Garland Street from Urban Residence One District (URD-1) to Urban Residence Two District (URD-2) – Council Ordinance #16-104.

**COUNCIL ACTION**

**Item No. 16-142**

**Date:** April 11, 2016

**Item/Subject:** **ORDINANCE**, Amending Chapter 260, Signs, of the Code of the City of Bangor, By Allowing Farmers' Market Signs on G&ISD Properties

**Responsible Department:** Community and Economic Development

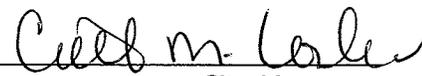
**Commentary:** The Bangor Farmers' Market is presently located in the Abbott Square Parking Lot and has Farmers' Market has approached the City, asking to place one or two signs at the Abbott Square parking lot.

The City Code does not presently allow for either sign, due to setback requirements in the zoning district in which the farmer's market is located. This ordinance would allow one or both of these signs to be placed, without impairing visibility for traffic.

This item was discussed at the Business and Economic Development Committee meeting on April 5, 2016.

\_\_\_\_\_  
Department Head

**Manager's Comments:**

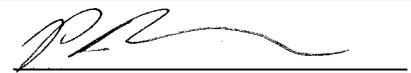
  
\_\_\_\_\_  
City Manager

**Associated Information:** Ordinance

**Budget Approval:**

\_\_\_\_\_  
Finance Director

**Legal Approval:**

  
\_\_\_\_\_  
City Solicitor

**Introduced for**

- Passage
- First Reading
- Referral

Assigned to Councilor Graham



## CITY OF BANGOR

---

**ORDINANCE**, Amending Chapter 260, Signs, of the Code of the City of Bangor, By Allowing Farmers' Market Signs on G&ISD Properties

**WHEREAS**, the Bangor Farmers' Market is presently located in the Abbott Square Parking Lot;

**WHEREAS**, the physical arrangement of said parking lot does not allow for signage that complies with the City of Bangor Code of Ordinances; and

**WHEREAS**, a narrow exception to the setback requirements of the Code would allow for signage without impairing visibility for traffic;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT

Chapter 260 of the Code of the City of Bangor be amended as follows:

**§ 260-7. District-specific standards and limitations.**

On-premises signs must meet the standards and limitations of the zoning district in which they are located as laid out herein.

...

I. G & ISD.

...

(5) Farmers' market signs. Signs in the G&ISD District for farmers' markets meeting the definition of farmers' market in 7 M.R.S. § 415(1) are not required to meet the setback requirements of this chapter or the Land Development Code, as long as such signs are no more than 15 square feet in sign area per side. One such farmers' market sign may be allowed on a G&ISD parcel in addition to the freestanding sign allowed under § 260-7(I)(2) above.

Additions are underlined.

**COUNCIL ACTION**

**Item No. 16-144**

**Date: April 11, 2016**

**Item/Subject**     **ORDINANCE**, Amending Land Development Code – Zone Change – At or about 611 Ohio Street (Tax Map R35 - a portion of Lot 054) from a Government & Institutional Service District to a Low Density Residential District.

**Responsible Department:**     Planning Division

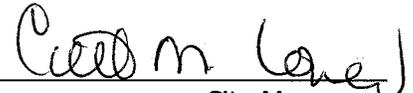
**Commentary:**

The applicant, Roman Catholic Bishop of Portland, is requesting a zone change for a portion of Mount Pleasant Cemetery, located on Ohio Street, (Tax Map R35 - a portion of Lot 054) from a Government & Institutional Service District to a Low Density Residential District. If approved, The Low Density Residential District will permit the construction of a residential unit on the Lot. Currently, Saint Paul the Apostle Parish plans to assist in the construction of a house for Habitat For Humanity. The property is served by public sewer and water.

\_\_\_\_\_  
Dept. Head

**Manager's Comments:**

For Referral to Planning Board Meeting of April 19, 2016 at 7:00 p.m.

  
\_\_\_\_\_  
City Manager

**Associated Information:**

**Budget Approval:**

\_\_\_\_\_  
Finance Director

**Legal Approval:**

  
\_\_\_\_\_  
City Solicitor

**Introduced for**

**Passage**

**First Reading**

**Referral to Planning Board Meeting of April 19, 2016, 7:00 p.m.**

**Page 1 of 1**

Assigned to Councilor Perry



## CITY OF BANGOR

---

(TITLE.) Ordinance, Amending Land Development Code – Zone Change – At or about 611 Ohio Street (Tax Map R35, a portion of Lot 054) from a Government & Institutional Service District to a Low Density Residential District.

*Be it ordained by the City Council of the City of Bangor, as follows:*

THAT the zoning boundary lines as established by the Zoning Map of the City of Bangor dated October 28, 1991, as amended, be hereby further amended as follows:

By changing a parcel of land located at or about 611 Ohio Street (Tax Map No. R35, a portion of parcel 054) from a Government & Institutional Service District to a Low Density Residential District. Said parcel of land containing approximately 22,109 sq. ft. and being more particularly indicated on the map attached hereto and made a part hereof.

RECEIVED

MAR 29 2016

7/1/2012  
C&ED and Planning

APPLICATION FOR LAND DEVELOPMENT CODE AND MAP AMENDMENT

TO: THE CITY COUNCIL AND  
THE PLANNING BOARD OF BANGOR, MAINE:

DATE: March 23, 2016

1. I(WE) Rev. Timothy Nadeau of The Parish of St. Paul The Apostle

2. of 217 York Street, Bangor, Maine 04401  
Address City or Post Office Telephone

hereby petition to amend the Land Development Code of the City of Bangor, Maine by reclassifying from ~~Government & Institutional Service Residential~~ district to the Low Density district for the property outlined in red on the maps attached hereto, which are part of this application, and described as follows:

3. ADDRESS OF PROPERTY (if any) North side of Ohio Street, adjacent to and  
Total Area (acres or square feet) northeasterly of 617 Ohio Street  
22,109.5 sq. ft.

4. PROPERTY LOCATION (General location): Example - South side of  
State Street 400 yards. East of Pine Street North side of Ohio Street  
268' to southwesterly bound of Dionne Parcel (Bk 10601, Pg 127)

5. LEGAL DESCRIPTION OF PROPERTY - Assessors Map No R3 Parcel 54

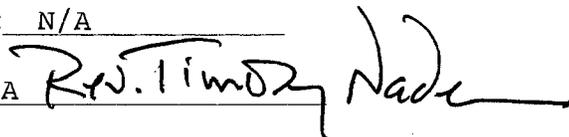
6. EXISTING USE: a portion of cemetery lot (presently undeveloped)

7. PROPOSED USE: single family residence. Property to be donated to  
Habitat for Humanity.

8. NAME AND ADDRESS OF OWNER OF RECORD: Name Roman Catholic Bishop of Portland

Address 510 Ocean Avenue  
Portland, ME 04103

9. NAME AND ADDRESS OF CONTRACT OWNER (if such): N/A

10. SIGNATURE OF OWNER OR CONTRACT OWNER: N/A 

11. REPRESENTATIVE OF APPLICANT: Name Rev. Timothy Nadeau  
(if applicable)

Address 217 York Street, Bangor, ME 04401

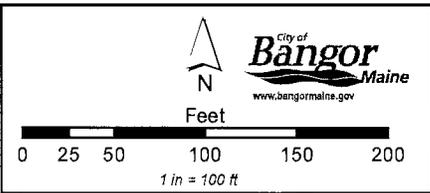
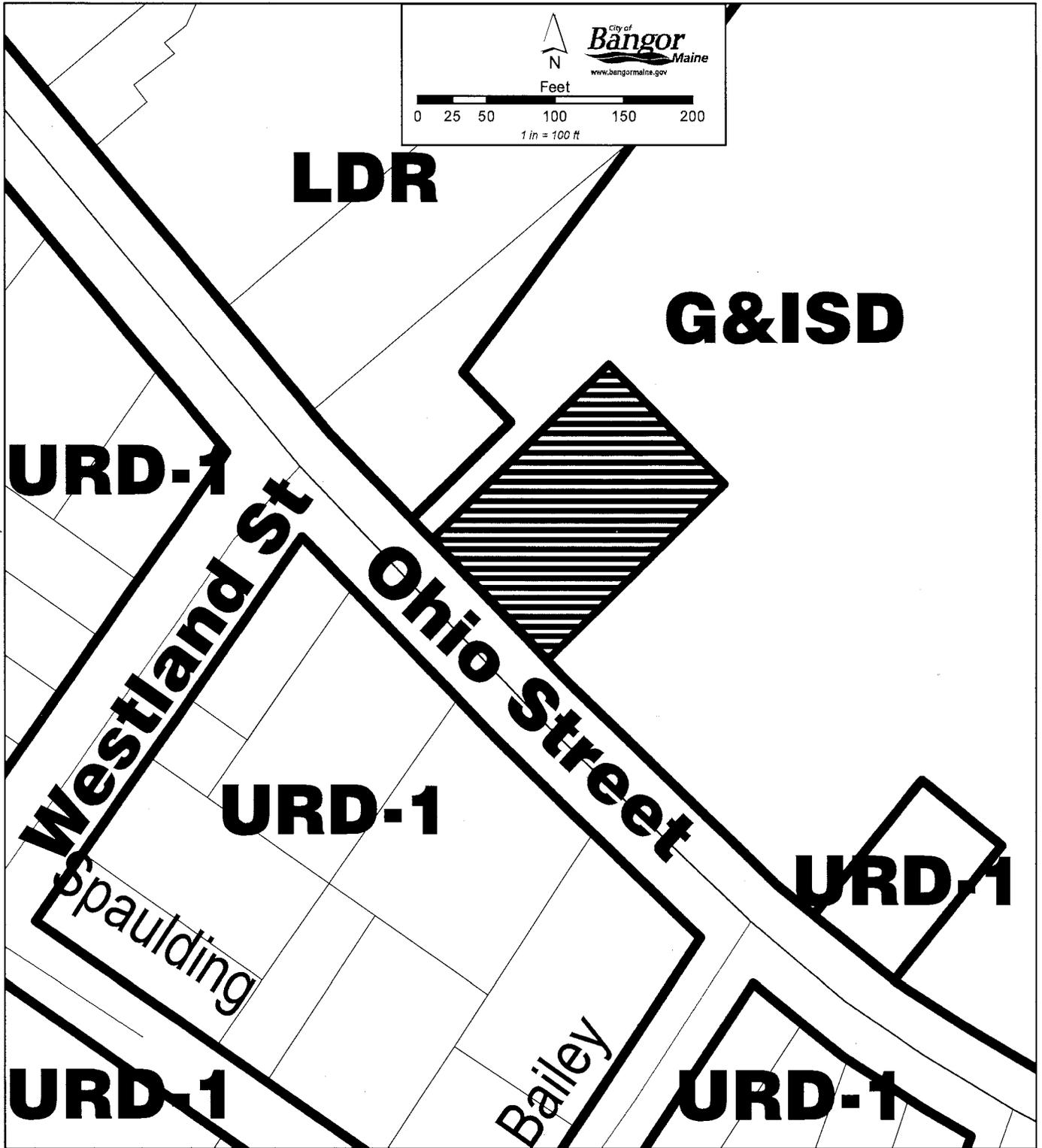
12. ATTACH ANY CONDITIONS PROPOSED FOR A CONTRACT ZONE REQUEST.

RETURN FORM & DUPLICATE TO PLANNING DIVISION, CITY HALL, BANGOR, ME.

<u>Application fee</u>	<u>Processing</u>	<u>Advertising</u>	<u>Total</u>
Zone Change (1/2 acre or less)	\$575.00	\$410.00*	\$ 985.00
Zone Change (in excess of 1/2 acre)	\$920.00	\$410.00*	\$1,330.00
Contract Zone Change - 5 conditions or less	\$1,377.00	\$509.00*	\$1,886.00
More than 5 conditions or 50 words	\$1,900.00	\$509.00**	\$To be determined

\*Two Ads Required \*\* Advertising costs above this amount to be paid for by applicant.

PLEASE READ PROCESSING PROCEDURE ON REVERSE SIDE



 **G&ISD to LDR**

## **MEMORANDUM**

**DATE:** April 20, 2016  
**TO:** The Honorable City Council  
**FROM:** David G. Gould, Planning Officer  
**SUBJECT:** Amending Zoning Ordinance  
Ohio Street – Government & Institutional Service District  
(G&ISD) to Low Density Residential District (LDR) –  
Council Ordinance 16-144

Please be advised that the Planning Board at its meeting on April 19, 2016, held a Public Hearing on the above zone change request.

Vice-Chairman Boothby opened the Public Hearing and asked the applicant or their representative to make a brief presentation of their application.

Mr. Brian Molloy, Esquire, of Lanham Blackwell & Baber indicated he represented Saint Paul the Apostle Parish in their request to amend the zoning of their parcel on Ohio Street. The rezoning is to change a portion of the Mt. Pleasant Cemetery to allow the construction of a house which the Parish will build with Habitat for Humanity. Attorney Molloy reviewed the parcel to be rezoned and noted the adjoining residential property owners were present. In addition to Attorney Molloy, Father Timothy Nadeau, Larry Willey, Head of the Capital Campaign, Lynn Hempen of Habitat for Humanity, and Lin Lufkin were present in support.

Planning Officer Gould advised the Board that the applicants' rezoning request was to construct a single family residence at the edge of the Cemetery. The ½ acre site is larger than most parcels used for typical Habitat Homes.

Member Williams asked Mr. Gould how he could reconcile the Comprehensive Plan's G&ISD Policy with the proposed request.

Mr. Gould noted that, as is typical, nonprofit entities are zoned G&ISD and the City Planners could not have predicted that a 200 year old cemetery would opt to provide a parcel for a Habitat Home. The good news is the property will be an extension to the neighborhood surrounding the cemetery. Mr. Gould provided a brief history of Mount Pleasant Cemetery established by Father John Bapst in 1854 for a growing Irish-Catholic population in Bangor. Starting with 14 acres along the Kenduskeag Stream the Cemetery has grown to slightly more than 70 acres. The Cemetery has endured I-95 bisecting it in the late 1950's and then again in 1968 when 14<sup>th</sup> Street Extension connected 14<sup>th</sup> Street to Valley Avenue.

There were no opponents to the rezoning.

The Board was supportive of the Church's efforts to assist in such a community project. Member Williams made a motion to recommend that the City Council adopt the application from the Roman Catholic Bishop of Portland for Ohio Street from Government & Institutional Service District (G&ISD) to Low Density Residential District (LDR) – Council Ordinance 16-144. Member McCarthy seconded the motion and the Board voted unanimously to recommend the rezoning request.

**COUNCIL ACTION**

---

**Item No. 16-145**

**Date: April 11, 2016**

**Item/Subject**     **ORDINANCE**, Amending Land Development Code – Zone Change – Polk Street (Tax Map 001-parcel 487) from a Government & Institutional Service District to an Airport Development District.

**Responsible Department:**     Planning Division

---

**Commentary:**

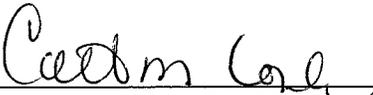
The applicant, General Electric, is requesting a zone change for a parcel of land located on Polk Street (Tax Map 001-487) from a Government & Institutional Service to an Airport Development District. The surrounding GE properties are zoned Airport Development District.

\_\_\_\_\_  
Dept. Head

---

**Manager's Comments:**

For Referral to Planning Board Meeting of April 19, 2016 at 7:00 p.m.

  
\_\_\_\_\_  
City Manager

---

**Associated Information:**

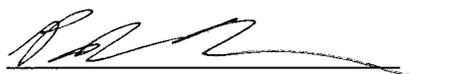
---

**Budget Approval:**

\_\_\_\_\_  
Finance Director

---

**Legal Approval:**

  
\_\_\_\_\_  
City Solicitor

---

**Introduced for**

Passage

First Reading

Referral to Planning Board Meeting of April 19, 2016, 7:00 p.m.

**Page 1 of 1**

Assigned to Councilor Baldacci



## CITY OF BANGOR

---

(TITLE.) Ordinance, Amending Land Development Code – Zone Change – Polk Street (Tax Map 001-487) from a Government & Institutional Service District to an Airport Development District.

*Be it ordained by the City Council of the City of Bangor, as follows:*

THAT the zoning boundary lines as established by the Zoning Map of the City of Bangor dated October 28, 1991, as amended, be hereby further amended as follows:

By changing a parcel of land located on Polk Steet (Tax Map No. 001 Parcel No. 487) from a Government & Institutional Service District to an Airport Development District. Said parcel of land containing approximately 2.58 acres and being more particularly indicated on the map attached hereto and made a part hereof.

7/1/2012

APPLICATION FOR LAND DEVELOPMENT CODE AND MAP AMENDMENT

TO: THE CITY COUNCIL AND  
THE PLANNING BOARD OF BANGOR, MAINE:

DATE: MARCH 30, 2016

- 1. I(WE) GENERAL ELECTRIC
- 2. of 53A GRIFFIN ROAD, BANGOR, ME 941-2545  
Address City or Post Office Telephone

hereby petition to amend the Land Development Code of the City of Bangor, Maine by reclassifying from G1+SD district to the A00 district for the property outlined in red on the maps attached hereto, which are part of this application, and described as follows:

- 3. ADDRESS OF PROPERTY (if any) POLK + NEVADA STREETS  
Total Area (acres or square feet) 2.58 ACRES
- 4. PROPERTY LOCATION (General location): Example - South side of State Street 400 yards. East of Pine Street POLK STREET + NEVADA STREET FORMER BUILDING 487 SITE.
- 5. LEGAL DESCRIPTION OF PROPERTY - Assessors Map No 000/Parcel 487
- 6. EXISTING USE: PARKING LOT AND FORMER BUILDING 487 (DEMOLISHED)
- 7. PROPOSED USE: OUTSIDE STORAGE AND PARKING
- 8. NAME AND ADDRESS OF OWNER OF RECORD: Name CITY OF BANGOR  
Address 73 HARLOW STREET
- 9. NAME AND ADDRESS OF CONTRACT OWNER (if such): GE, 53A GRIFFIN ROAD
- 10. SIGNATURE OF OWNER OR CONTRACT OWNER: Cashm Corle
- 11. REPRESENTATIVE OF APPLICANT: Name PLYMOUTH ENGINEERING  
(if applicable)  
Address PO BOX 46, PLYMOUTH, ME 04969

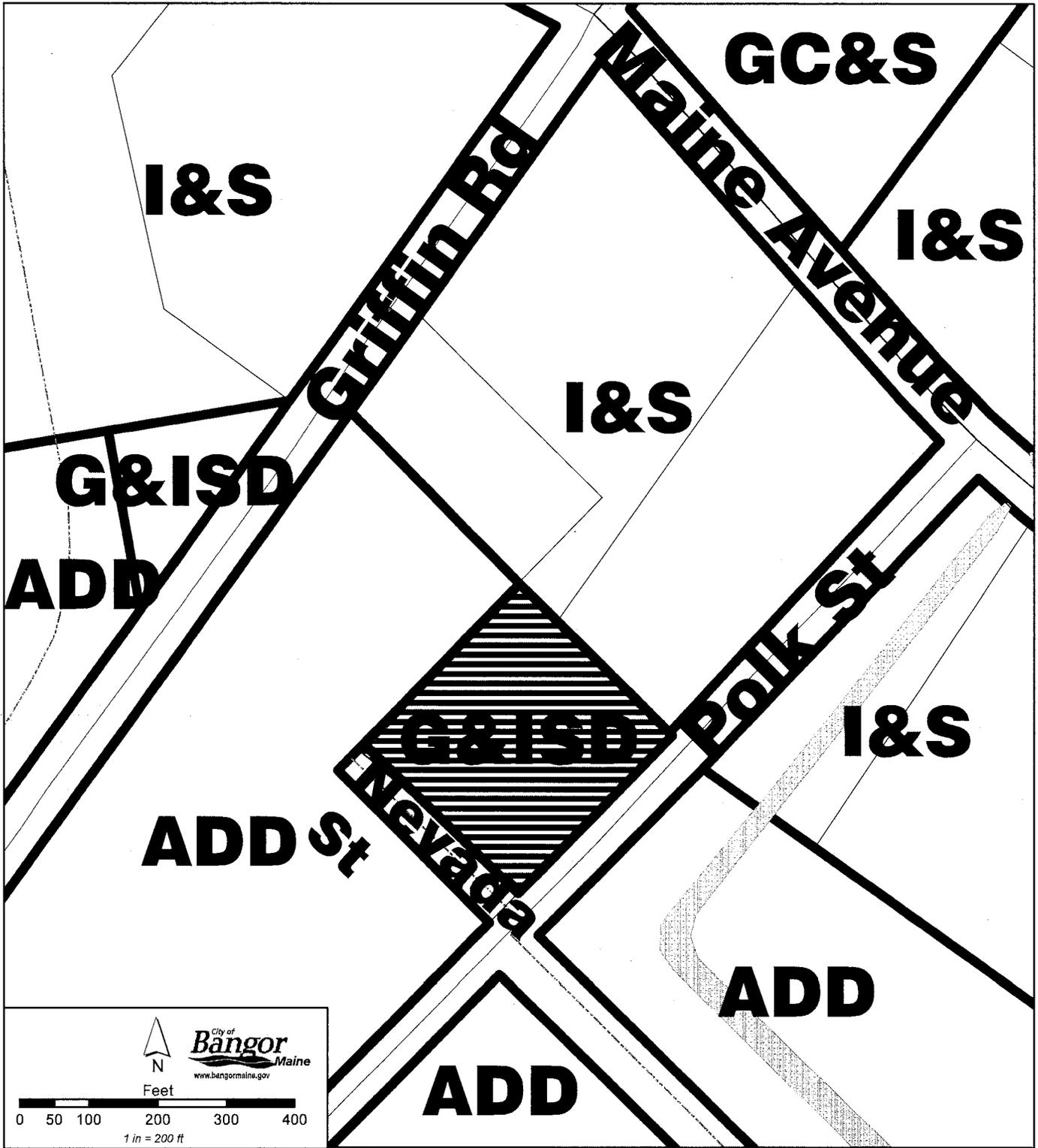
12. ATTACH ANY CONDITIONS PROPOSED FOR A CONTRACT ZONE REQUEST.

RETURN FORM & DUPLICATE TO PLANNING DIVISION, CITY HALL, BANGOR, ME.

<u>Application fee</u>	<u>Processing</u>	<u>Advertising</u>	<u>Total</u>
Zone Change (1/2 acre or less)	\$575.00	\$410.00*	\$ 985.00
Zone Change (in excess of 1/2 acre)	\$920.00	\$410.00*	\$1,330.00
Contract Zone Change - 5 conditions or less	\$1,377.00	\$509.00*	\$1,886.00
More than 5 conditions or 50 words	\$1,900.00	\$509.00**	\$To be determined

\*Two Ads Required \*\* Advertising costs above this amount to be paid for by applicant.

PLEASE READ PROCESSING PROCEDURE ON REVERSE SIDE



 **G&ISD to ADD**

## MEMORANDUM

**DATE:** April 20, 2016  
**TO:** The Honorable City Council  
**FROM:** David G. Gould, Planning Officer  
**SUBJECT:** Amending Zoning Ordinance  
Polk and Nevada Streets – Government and Institutional  
Service District (G&ISD) to Airport Development District  
(ADD) – Council Ordinance 16-145

Please be advised that the Planning Board at its meeting on April 19, 2016, held a Public Hearing on the above zone change request.

Vice-Chairman Boothby asked the applicant or their representative to make a brief presentation of the request.

Mr. Fred Marshall of Plymouth Engineering indicated that the rezoning application was to allow this 2.58-acre site to be reused for outdoor storage. The site with Building 457 on it were previously owned by the Maine National Guard until the early 1990's when the property was transferred to the City. Since then GE employees have used the parking lot. The City demolished Building 457 in 2015 and GE seeks use the site for an outdoor storage area which is not allowed in G&IS Districts.

There were no other proponents or opponents to the rezoning request.

Planning Officer Gould indicated that the request was to facilitate the reuse of the property for outdoor storage. When the Air Force passed the property to the Guard the City zoned it Civic and Institutional. In 1991 the current Land Use Ordinance was adopted with the successor zone of G&ISD in which it continued with the City's ownership. As is typically the case G&ISD zoning is largely based on the ownership of the parcel as a governmental agency or nonprofit entity. The parcel is surrounded on three sides by Airport Development District (ADD) Zoning that are also leased to General Electric. The Comprehensive Plan's Land Use Policy Map identifies this area surrounded by Griffin Road, Maine Avenue, and Polk Street as intended for industrial development. The Zoning Policy Map indicates it as Industry and Service zoning.

Member Williams made a motion to recommend the proposed rezoning to the City Council. Member McCarthy seconded the motion. The Board voted six in favor and none opposed to recommend that the City Council approve the rezoning from Government and Institutional Service District to Airport Development District as contained in C.O. # 16-145.

**COUNCIL ACTION**

---

**Item No. 16-146**

**Date:** April 11, 2016

**Item/Subject:** **ORDINANCE**, Amending the Code of the City of Bangor, Chapters 234, Public Property, and 260, Signs, By Allowing Downtown Banners and Extending the Time Limit for Nonconforming Signs

**Responsible Department:** Community and Economic Development

---

**Commentary:** This ordinance amendment seeks to clarify a number of provisions in the sign code including downtown seasonal and promotional banners and extend the time that nonconforming signs may be replaced.

Currently, the city code specifically allows banners to be put up downtown above streets and sidewalks provided that the banners either advertise activities of a nonprofit organization or be approved by the City Council. State law, prohibits any signs or banners in the right of way which are not municipal. In practice the City has followed state law and banners have only been used for city events such as the Cool Sounds concert series. This ordinance amendment proposes to clarify that banners can only be placed in the right of way to advertise city events in conformance with State law. Another proposal is remove the 14 day restriction. Many of the events that occur in the city, such as Cool Sounds, extend through a season. If this ordinance amendment is approved, the 14 day restriction would be removed.

Often the City has sponsors for events such as Cool Sounds. If approved, the amendments would allow for acknowledgement of sponsors of these signs, add standards regarding advertising, logos, and public safety, and would move all sign standards into one place in the sign code.

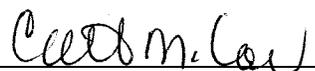
Finally, this ordinance amendment would also extend the amount of time that a nonconforming sign can be replaced after the sign has been removed to 36 months, from the current 12 month limit. The sign still must be removed within 30 days of a business ceasing operation, but a new sign can now go up on the same sign structure within 36 months, instead of 12.

---

Department Head

---

**Manager's Comments:**

  
City Manager

---

**Associated Information:** Ordinance

---

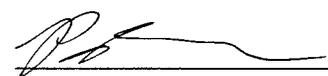
**Budget Approval:**

---

Finance Director

---

**Legal Approval:**

  
City Solicitor

---

**Introduced for**

**Passage**

**First Reading**

**Referral** to the Business and Economic Development Committee on April 19, 2016

Assigned to Councilor Nealley



## CITY OF BANGOR

---

**ORDINANCE**, Amending the Code of the City of Bangor, Chapters 234, Public Property, and 260, Signs, By Allowing Downtown Banners and Extending the Time Limit for Nonconforming Signs

**WHEREAS**, the only banners traditionally put up over City rights-of-way are seasonal and promotional banners put up by the City;

**WHEREAS**, the City wishes to prevent the proliferation of signs and banners in City rights-of-way in order to avoid distraction and obstruction of vehicular travelers and pedestrians;

**WHEREAS**, the right to use a nonconforming sign is currently discontinued after twelve months; and

**WHEREAS**, it can take landlords considerably longer than twelve months to find new tenants for vacant buildings;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT

Chapter 234 of the Code of the City of Bangor be amended as follows:

**§ 234-3 Displays over sidewalks, flags and banners.**

No person, firm or corporation shall hang or cause to be hung any goods or other things over any sidewalk or suffer any spout to leak water on the same over the head of any person or hang, fasten or suffer to be hung or fastened from any building or lot owned by or in possession of said person, firm or corporation, or hang, fasten or affix to any building owned or in possession of others, any flag or banner of any description which shall project over any street or sidewalk, unless permitted to do so by the Code Enforcement Officer of the City of Bangor. ~~No such flag or banner shall be permitted without first having obtained a permit therefor as herein provided. Only flags or banners approved by the Code Enforcement Officer and containing a public service announcement or advertisement for activities of nonprofit, charitable or benevolent organizations or banners authorized by the City Council shall be permitted. Such permits shall be issued by the Code Enforcement Officer upon receipt of an application therefor designating the name and address of the applicant, the name and address of its authorized representative, a description of the proposed location of the flag or banner and the message to be displayed thereon.~~

- A. ~~Installation and removal. Any flag or banner in the condition permitted hereunder shall only be installed or removed by employees of the Public Services Department. The exact location, height and method of installation shall be completely within the discretion of the Director of Public Services, who shall, as much as is reasonably possible, meet the desires of the applicant. No flag or banner shall be installed in such a manner as to constitute a hazard to the traveling public or cause an obstruction to any traffic sign or signal. All costs incurred by the City by reason of said~~

APRIL 11, 2016

~~installation or removal shall be borne by the applicant. In the event that any flag or banner authorized hereunder shall become deteriorated, insecurely fastened or dislodged after installation so as to cause a potential hazard to the traveling public, an obstruction to any traffic sign or signal or a threat to adjacent property, the Director of Public Services, without notice to the applicant, shall cause said flag or banner to be removed.~~

- ~~B. Duration of permit. No flag or banner authorized hereunder shall be permitted to remain in any one location for more than 14 days.~~
- ~~C. Permit fees. The fee to be charged for the permit authorized hereunder shall be the estimated cost of such installation and removal. Any difference between the estimated costs and the actual costs shall be billed or refunded to the applicant, as the case may be.~~
- ~~D. Appeals. Appeals from a denial of such a permit by the Code Enforcement Officer may be made to the City Council.~~

BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANGOR AS FOLLOWS, THAT

Chapter 260 of the Code of the City of Bangor be amended as follows:

**§ 260-12 Signs allowed without a permit.**

The following off-premises signs may be erected and maintained without a permit from the Code Enforcement Officer:

...

**E. Downtown seasonal and promotional banners, provided that:**

- (1) The banners may only be erected within a public right-of-way in the designated Downtown Tax Increment Financing District area, as approved by the City Council and accepted by the State of Maine. The banners are not subject to the requirements of § 260-6(I).**
- (2) The banners must be owned and erected by the City of Bangor, and shall be reviewed and authorized by the City Council.**
- (3) Banners advertising specific commercial establishments are prohibited.**
- (4) Each banner may have the logo and/or name of a sponsoring organization. The logo and/or name may not take up more than 20% of the sign area.**
- (5) No banner shall be installed, maintained, or allowed to remain in a manner as to constitute a hazard to the traveling public or cause an obstruction to any traffic sign or signal. The Director of Public Works may cause such a banner to be removed at his or her discretion.**

...

**§ 260-14 Signs over public street or sidewalk.**

APRIL 11, 2016

No off-premises sign shall be suspended over any public street or sidewalk, with the exception of a flag or banner as provided in ~~Chapter 234, Public Property, § 234-3~~ § 260-12(E) of this Code.

### **§ 260-17 Nonconforming signs.**

Any sign which was lawfully erected and which fails to comply with the requirements of this chapter or any sign which legally exists but fails to meet the requirements of this chapter as the result of a future amendment to this chapter is a nonconforming sign. It is the intent of this section to strongly disfavor nonconformities and to encourage their elimination; however, it is also the intent of this section to treat nonconformities fairly and realistically by allowing certain ameliorative changes. Therefore, nonconformities may continue subject to the following conditions:

- A. Increases prohibited. Nonconforming signs shall not be expanded, enlarged in any dimension, relocated, or otherwise moved, except as permitted by § 260-6J of this chapter. Upon issuance of a sign permit from the Code Enforcement Office, the face of a nonconforming sign may be changed, provided that the nonconforming aspects of the sign are not increased.
- B. Restoration of nonconforming sign prohibited. If any nonconforming sign is destroyed or if any sign is discontinued for ~~12~~ 36 consecutive months, the right to continue it shall terminate, regardless of the owners intent to retain the nonconforming sign.
- C. Repairs. Ordinary repairs and maintenance of nonconforming signs are permitted.

Additions are underlined.



**NEW  
BUSINESS**

**COUNCIL ACTION**

**Item No. 16-170**

**Date:** April 25, 2016

**Item/Subject:** Order, Authorizing the transfer \$1,100,000 from the Unassigned Fund Balance

**Responsible Department:** Finance

**Commentary:** This Order will authorize the transfer \$1,100,000 from the unassigned fund balance to replenish capital reserve funds. The Charter specifies that the City will maintain a fund balance of no less than 8.33% of the prior years operating expenditures. The audit for fiscal year ending 2015 indicates that the City has an unassigned balance of approximately \$10.0 million which represents 10.86% of the prior year expenditures. Over the past several budget cycles, the City has not budgeted sufficient funds to maintain capital replacement funds. As a result, it is recommended by staff that \$1,100,000 be transferred to the capital funds as follows; \$700,000 to the Capital Improvement Fund, \$275,000 to the Bus Replacement Fund and \$125,000 to the Fire Equipment Replacement Fund. If approved, this transfer would ensure adequate funds within the Improvement Fund to cover the cost of items proposed for funding in the proposed FY 2017 budget, to fund Bangor's share of bus rehabilitation and replacement as anticipated in the 5 year capital plan and to fund the purchase of two ambulances in future years. If approved the unassigned fund balance will drop to approximately \$8.9 million which represents 9.7% of the 2015 operating budget.

This item was reviewed and recommended for approval by the Finance Committee on April 11, 2016.

\_\_\_\_\_  
Debbie Cyr  
Department Head

**Manager's Comments:**

\_\_\_\_\_  
*Carl M. Crowl*  
City Manager

**Associated Information:**

**Budget Approval:**

\_\_\_\_\_  
*Debbie Cyr*  
Finance Director

**Legal Approval:**

\_\_\_\_\_  
*AA*  
City Solicitor

Introduced for  
 **Passage**  
 **First Reading**  
 **Referral**

Assigned to Councilor Durgin



# CITY OF BANGOR

---

**(TITLE)** Order, Authorizing the Transfer of \$1,10,000 from the Unassigned Fund Balance

WHEREAS, The Charter requires that the City Council shall target an unassigned fund balance of no more than 16.66% of the operating budget for the General Fund. The target balance shall be established at 8.33% of the last year's General Fund operating budget.

WHEREAS, The unassigned fund balance at the end of the prior fiscal year was approximately 10.86%

WHEREAS, The transfer of \$1,100,000 from the unassigned fund balance will leave the balance at 9.67% of the previous years operating budget, well within the Charter established limits; and

WHEREAS, The transfer to unassigned fund balance has been proposed to replenish capital funds including \$700,000 to the Improvement Reserve; \$275,000 to the Bus Replacement Fund; and \$125,000 to the Fire Equipment Replacement Fund.

***BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BANGOR, THAT***

The Finance Director is hereby authorized to transfer \$1,100,000 from the unassigned fund balance for the following purposes; \$800,000 to the Improvement Reserve, \$275,000 to the Bus Replacement Fund and \$125,000 to the Fire Equipment Replacement Fund.

**Date:** ABRIL 25, 2016

**Item/Subject:** **ORDER, Authorizing Application for Transit Bus Funding under the Federal Transit Administration Fixing America's Surface Transportation (FAST) Act.**

**Responsible Department:** **Community Connector**

**Commentary:** This Order will authorize an application for funding under the Federal Transportation Administration, Fixing America's Surface Transportation (FAST) Act, to replace up to five Orion Community Connector transit buses. These buses meet both the age and mileage requirements for replacement under FTA rules, and if successful, would be the first new buses added to the fleet since 2011 when federal stimulus funding was made available. It is estimated that new transit buses cost in the range of \$400,000-\$425,000 per bus. Under the terms of the funding program, if the buses are ADA compliant, a local match of 15% would be required. Given the age and condition of the fleet and limited funding opportunities, it is recommended that the city apply for the FAST funding. This was reviewed and recommended for approval at the April 11, 2016 special Finance Committee meeting.

\_\_\_\_\_  
Department Head

**Manager's Comments:**

\_\_\_\_\_  
*Carolin Core*  
City Manager

**Associated Information:** Background Memorandum

**Budget Approval:**

\_\_\_\_\_  
*Belief*  
Finance Director

**Legal Approval:**

\_\_\_\_\_  
*MA*  
City Solicitor

**Introduced for**

- Passage – Consent Agenda**
- First Reading**
- Referral**

**Page**    **of**

Assigned to Councilor Nichols



## CITY OF BANGOR

---

**(TITLE.) Order, Authorizing Application for Transit Bus Funding under the Federal Transit Administration Fixing America's Surface Transportation (FAST) Act**

*By the City Council of the City of Bangor:*

**ORDERED, THAT,** the City Manager, or her designee, is hereby authorized to take any necessary action to apply for transit bus funding under the Federation Transit Administration Fixing America's Surface Transportation (FAST) Act to replace up to five 2002 Community Connector Orion buses, in accordance with the terms, conditions and requirements of the FAST grant program.

To: Finance Committee

From: Bob Farrar, Ass't City Manager, Laurie Linscott, Bus Superintendent

Subject: FTA Grant Funding Opportunity—Community Connector

Date: April 8, 2016

The US Department of Transportation – Federal Transit Administration has just announced the availability of bus and bus facility funding under the FAST (Fixing America's Surface Transportation) Act. The total amount of grant funds to be awarded is \$266 million. (In the summer of 2014, the city previously applied for federal grant funding under the \$100 million Ladder's of Opportunity Initiative, but was unsuccessful.) This grant opportunity is based upon a formula of 85% federal and 15% local funding as long as the buses meet certain American's with Disability Act (ADA) requirements. Grant applications are due on May 13<sup>th</sup>.

As the Committee is aware, the current fleet of transit buses is both older and has high mileage. While we have recently been working with Maine Military Authority in Limestone to rehabilitate two buses, and we obtained several used buses from Westchester County, NY, and Portland, ME, we have not purchased any new buses since 2011. Funding for the five Gillig buses purchased in 2011 was provided through the Federal Stimulus Program. Rehabilitating buses and acquiring used buses have been generally seen as measures to augment the fleet while we wait for federal funding opportunities. Depending upon final configuration and design, new transit buses cost in the range of \$400,000+ per unit.

If approved by the Committee, the grant application would request funding to replace five 2002 Orion buses which meet both life-span and mileage requirements for replacement. As with the 2014 grant funding program, we expect the process to be highly competitive. In the last round, there were no grants awarded to smaller transit systems, as we recall. We are planning to use either staff from the State Department of Transportation -Bureau of Planning, or possibly a grant writer at EMDC to assist with preparing the actual grant document, which is both lengthy and requires a significant amount of supporting and background data. Given the Transit System's on-going need to upgrade the fleet, we recommend that the Committee support applying for transit bus funding under the FAST Act.

Staff will be at the Committee meeting to answer any questions you may have.

**COUNCIL ACTION**

Item No. 16-172

Date: April 25, 2016

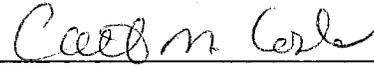
**Item/Subject: Order, Directing the City Manager to Take Possession of Vacant Land Located on Patten Street – Map 035 Lot 014**

**Responsible Department:** Treasury

**Commentary:** This Order directs the City Manager to take possession of vacant land located at 44 Patten Street by virtue of the 2014 matured tax lien. The property is identified as Map 035 Lot 014 and was previously owned by Twila and Allen Butler Jr. The City of Bangor has recorded a tax lien on the property for unpaid real estate taxes; which has matured. All attempts to receive payment have been unsuccessful. If approved, this order will also authorize the removal of all personal property. This item has been discussed at several council meetings.

\_\_\_\_\_  
Department Head

**Manager's Comments:**

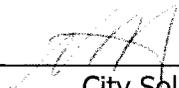
  
\_\_\_\_\_  
City Manager

**Associated Information:**

**Budget Approval:**

  
\_\_\_\_\_  
Finance Director

**Legal Approval:**

  
\_\_\_\_\_  
City Solicitor

**Introduced for**  
 Passage  
 First Reading  
 Referral

Page \_\_ of \_\_

Assigned to Councilor Plourde



## CITY OF BANGOR

---

**(TITLE.) Order, Directing the City Manager to Take Possession of the Vacant Land Located on Patten Street – Map 035 Lot 014**

WHEREAS, the City of Bangor has recorded a tax lien on the vacant land on Patten Street, identified as Map 035 Lot 014 for unpaid real estate taxes; and

WHEREAS, that lien has matured; and

WHEREAS, all attempts to receive payment have been unsuccessful;

***By the City Council of the City of Bangor:***

***Be it Ordered,***

that Catherine M. Conlow, City Manager, is hereby directed on behalf of the City of Bangor to take possession of vacant land located on Patten Street and dispose of any abandoned personal property located thereon in accordance with state law.

**COUNCIL ACTION**

---

**Item No. 16-173**

**Date:** April 25, 2016

**Item/Subject:** **ORDER**, Changing the Name of a Section of Union Street Under the Joshua Lawrence Chamberlain Bridge to Union Plaza and Adding It to the Official City Map

**Responsible Department:** Engineering

---

**Commentary:**

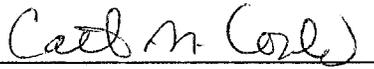
This Order would change the name of the portion of Union Street underneath the Joshua Lawrence Chamberlain Bridge to Union Plaza, and change the street name on the City's Official Map.

This street section's current designation as part of Union Street can be confusing; in particular, travelers using GPS are often directed over the bridge when they are trying to find a business that is located on the portion of Union Street underneath the bridge. Section 271-5 of the Code provides that the City Council may, by order, change the name of City streets.

This change was recommended at the Infrastructure Committee meeting on March 15, 2016.

\_\_\_\_\_  
Department Head

**Manager's Comments:**

  
\_\_\_\_\_  
City Manager

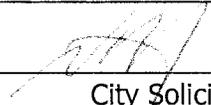
**Associated Information:**

---

**Budget Approval:**

\_\_\_\_\_  
Finance Director

**Legal Approval:**

  
\_\_\_\_\_  
City Solicitor

**Introduced for**

- Passage**
- First Reading**
- Referral**

Assigned to Councilor Sprague



## CITY OF BANGOR

---

**ORDER,** Changing the Name of a Section of Union Street Under the Joshua Lawrence Chamberlain Bridge to Union Plaza and Adding It to the Official City Map

**WHEREAS,** the street running underneath the Joshua Lawrence Chamberlain bridge, perpendicular to Broad Street, is presently considered part of Union Street;

**WHEREAS,** this designation is sometimes confusing, as those attempting to find businesses on this part of Union Street sometimes end up on the bridge instead;

**WHEREAS,** in order to alleviate this confusion, a change to the name of this section of Union Street is appropriate; and

**WHEREAS,** Section 271-5 of the Code of the City of Bangor provides that the City Council may, by order, change the name of City streets;

**BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BANGOR, THAT**

The name of the portion of Union Street located under the Joshua Lawrence Chamberlain Bridge shall be changed to Union Plaza and that the change in the name of the street shall be added to the City's Official Map.